2023

SESSION LAWS

OF THE

STATE OF WASHINGTON

2023 REGULAR SESSION
SIXTY-EIGHTH LEGISLATURE
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Code Reviser

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WASHINGTON SESSION LAWS
GENERAL INFORMATION

1. EDITIONS AVAILABLE.

   (a) *General Information.* The session laws are printed in a permanent softbound edition containing the accumulation of all laws adopted in the legislative session. The edition contains a subject index and tables indicating Revised Code of Washington sections affected.

   (b) *Where and how obtained - price.* The permanent session laws may be ordered from the Statute Law Committee, Pritchard Building, P.O. Box 40552, Olympia, Washington 98504-0552. The edition costs $25.00 per set plus applicable state and local sales taxes and $7.00 shipping and handling. All orders must be accompanied by payment.

2. PRINTING STYLE - INDICATION OF NEW OR DELETED MATTER.

   The session laws are presented in the form in which they were enacted by the legislature. This style quickly and graphically portrays the current changes to existing law as follows:

   (a) In amendatory sections

   (i) underlined matter is new matter.

   (ii) deleted matter is ((~~lined out and bracketed between double parentheses~~)).

   (b) Complete new sections are prefaced by the words NEW SECTION.

3. PARTIAL VETOES.

   (a) Vetoed matter is ***printed in bold italics.***

   (b) Pertinent excerpts of the governor's explanation of partial vetoes are printed at the end of the chapter concerned.

4. EDITORIAL CORRECTIONS. Words and clauses inserted in the session laws under the authority of RCW 44.20.060 are enclosed in [brackets].

5. EFFECTIVE DATE OF LAWS.

   (a) The state Constitution provides that unless otherwise qualified, the laws of any session take effect ninety days after adjournment sine die. The Secretary of State has determined the effective date for the Laws of the 2023 regular session is July 23, 2023.

   (b) Laws that carry an emergency clause take effect immediately, or as otherwise specified, upon approval by the Governor.

   (c) Laws that prescribe an effective date take effect upon that date.

6. INDEX AND TABLES.

   A cumulative index and tables of all 2023 laws may be found at the back of the final volume.

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CHAPTER 1

[2023Salaryschedule.sl]

SALARIES—STATE ELECTED OFFICIALS

AN ACT Relating to salaries of elected officials; and amending RCW 43.03.011, 43.03.012, and 43.03.013.

Be it enacted by the Washington citizens' commission on salaries for elected officials of the State of Washington:

Sec. 1. RCW 43.03.011 and 2021 c 1 s 1 are each amended to read as follows:

Pursuant to Article XXVIII, section 1 of the state Constitution and RCW 43.03.010 and 43.03.310, the annual salaries of the state elected officials of the executive branch shall be as follows:

(1) Effective July 1, ((~~2020~~)) 2022:

(a) Governor. . . . . ((~~$187,353~~)) $190,632
(b) Lieutenant governor . . . . . ((~~$117,300~~)) $119,353
(c) Secretary of state . . . . . ((~~$134,640~~)) $136,996
(d) Treasurer . . . . . ((~~$153,615~~)) $156,303
(e) Auditor . . . . . ((~~$132,212~~)) $134,526
(f) Attorney general . . . . . ((~~$172,259~~)) $175,274
(g) Superintendent of public instruction . . . . . ((~~$153,000~~)) $155,678
(h) Commissioner of public lands . . . . . ((~~$153,000~~)) $155,678
(i) Insurance commissioner . . . . . ((~~$137,700~~)) $140,110

(2) Effective July 1, ((~~2021~~)) 2023:

(a) Governor. . . . . ((~~$187,353~~)) $198,257
(b) Lieutenant governor . . . . . ((~~$117,300~~)) $124,127
(c) Secretary of state . . . . . ((~~$134,640~~)) $145,714
(d) Treasurer . . . . . ((~~$153,615~~)) $162,555
(e) Auditor . . . . . ((~~$132,212~~)) $145,714
(f) Attorney general . . . . . ((~~$172,259~~)) $187,543
(g) Superintendent of public instruction . . . . . ((~~$153,000~~)) $161,905
(h) Commissioner of public lands . . . . . ((~~$153,000~~)) $161,905
(i) Insurance commissioner . . . . . ((~~$137,700~~)) $145,714

(3) Effective July 1, ((~~2022~~)) 2024:

(a) Governor. . . . . ((~~$190,632~~)) $204,205
(b) Lieutenant governor . . . . . ((~~$119,353~~)) $127,851
(c) Secretary of state . . . . . ((~~$136,996~~)) $150,085
(d) Treasurer . . . . . ((~~$156,303~~)) $167,432
(e) Auditor . . . . . ((~~$134,526~~)) $150,085
(f) Attorney general . . . . . ((~~$175,274~~)) $193,169
(g) Superintendent of public instruction . . . . . ((~~$155,678~~)) $166,762
(h) Commissioner of public lands . . . . . ((~~$155,678~~)) $166,762
(i) Insurance commissioner . . . . . ((~~$140,110~~)) $150,085

(4) The lieutenant governor shall receive the fixed amount of his or her salary plus 1/260th of the difference between his or her salary and that of the governor for each day that the lieutenant governor is called upon to perform the duties of the governor by reason of the absence from the state, removal, resignation, death, or disability of the governor.

Sec. 2. RCW 43.03.012 and 2021 c 1 s 2 are each amended to read as follows:

Pursuant to Article XXVIII, section 1 of the state Constitution and RCW 2.04.092, 2.06.062, 2.08.092, 3.58.010, and 43.03.310, the annual salaries of the judges of the state shall be as follows:

(1) Effective July 1, ((~~2020~~)) 2022:

(a) Chief justice of the supreme court . . . . . ((~~$223,499~~)) $227,410

(b) Justices of the supreme court . . . . . ((~~$220,320~~)) $224,176

(c) Judges of the court of appeals . . . . . ((~~$209,730~~)) $213,400

(d) Judges of the superior court . . . . . ((~~$199,675~~)) $203,169

(e) Full-time judges of the district court . . . . . ((~~$190,120~~)) $193,447

(2) Effective July 1, ((~~2021~~)) 2023:

(a) Chief justice of the supreme court . . . . . ((~~$223,499~~)) $243,329

(b) Justices of the supreme court . . . . . ((~~$220,320~~)) $239,868

(c) Judges of the court of appeals . . . . . ((~~$209,730~~)) $228,338

(d) Judges of the superior court . . . . . ((~~$199,675~~)) $217,391

(e) Full-time judges of the district court . . . . . ((~~$190,120~~)) $206,988

(3) Effective July 1, ((~~2022~~)) 2024:

(a) Chief justice of the supreme court . . . . . ((~~$227,410~~)) $255,495

(b) Justices of the supreme court . . . . . ((~~$224,176~~)) $251,861

(c) Judges of the court of appeals . . . . . ((~~$213,400~~)) $239,755

(d) Judges of the superior court . . . . . ((~~$203,169~~)) $228,261

(e) Full-time judges of the district court . . . . . ((~~$193,447~~)) $217,337

(4) The salary for a part-time district court judge shall be the proportion of full-time work for which the position is authorized, multiplied by the salary for a full-time district court judge.

Sec. 3. RCW 43.03.013 and 2021 c 1 s 3 are each amended to read as follows:

Pursuant to Article XXVIII, section 1 of the state Constitution and RCW 43.03.010 and 43.03.310, the annual salary of members of the legislature shall be:

(1) Effective July 1, ((~~2020~~)) 2022:

(a) Legislators . . . . . ((~~$56,881~~)) $57,876

(b) Speaker of the house . . . . . ((~~$64,881~~)) $66,016

(c) Senate majority leader . . . . . ((~~$64,881~~)) $66,016

(d) House minority leader . . . . . ((~~$60,881~~)) $61,946

(e) Senate minority leader . . . . . ((~~$60,881~~)) $61,946

(2) Effective July 1, ((~~2021~~)) 2023:

(a) Legislators . . . . . ((~~$56,881~~)) $60,191

(b) Speaker of the house . . . . . ((~~$64,881~~)) $68,657

(c) Senate majority leader . . . . . ((~~$64,881~~)) $68,657

(d) House minority leader . . . . . ((~~$60,881~~)) $64,424

(e) Senate minority leader . . . . . ((~~$60,881~~)) $64,424

(3) Effective July 1, ((~~2022~~)) 2024:

(a) Legislators . . . . . ((~~$57,876~~)) $61,997

(b) Speaker of the house . . . . . ((~~$66,016~~)) $70,717

(c) Senate majority leader . . . . . (($66,016)) $70,717
(d) House minority leader . . . . . (($61,946)) $66,357
(e) Senate minority leader . . . . . (($61,946)) $66,357

Originally filed in Office of Secretary of State February 13, 2023.

CHAPTER 2

[Substitute House Bill 1103]

CAPITAL VESSEL REPLACEMENT ACCOUNT—BOND PROCEEDS

AN ACT Relating to avoiding interest arbitrage charges on bond proceeds in the capital vessel replacement account; amending 2022 c 186 s 406 (uncodified); creating a new section; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that delays in the procurement process for acquiring additional ferry boat vessels have correspondingly delayed the time frame in which the proceeds of bonds issued for that purpose may be spent from the capital vessel replacement account. The legislature further finds that, absent timely legislative action, the state may incur internal revenue service arbitrage rebate liability as a result of an inability to expend the bond proceeds in a timely manner. It is the intent of the legislature to repurpose the use of the bond proceeds to allow the department of transportation to spend the funds within internal revenue service timelines.

Sec. 2. 2022 c 186 s 406 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—ADMINISTRATIVE TRANSFERS

(1) Highway Safety Account—State Appropriation:
For transfer to the State Patrol Highway
Account—State $47,000,000

(2)(((~~(a) Transportation Partnership Account—State Appropriation: For transfer to the Capital Vessel Replacement Account—State . . . . . $45,468,000~~

~~(b) The amount transferred in this subsection represents proceeds from the sale of bonds authorized in RCW 47.10.873.~~

~~(3)~~)))(a) Transportation Partnership Account—State Appropriation: For transfer to the Tacoma Narrows Toll Bridge Account—State $30,293,000

(b) It is the intent of the legislature that this transfer is temporary, for the purpose of minimizing the impact of toll increases. An equivalent reimbursing transfer is to occur after the debt service and deferred sales tax on the Tacoma Narrows bridge construction costs are fully repaid in accordance with chapter 195, Laws of 2018.

(((~~(4)~~))) (3)(a) Motor Vehicle Account—State Appropriation:
For transfer to Alaskan Way Viaduct Replacement Project
Account—State $6,000,000

(b) The funds provided in (a) of this subsection are a loan to the Alaskan Way viaduct replacement project account—state, and the legislature assumes that these funds will be reimbursed to the motor vehicle account—state at a later date when traffic on the toll facility has recovered from the COVID-19 pandemic.

((~~(5)~~)) (4) Motor Vehicle Account—State Appropriation: For transfer to the County Arterial Preservation Account—State $7,666,000

((~~(6)~~)) (5) Motor Vehicle Account—State Appropriation: For transfer to the Freight Mobility Investment Account—State $5,511,000

((~~(7)~~)) (6) Motor Vehicle Account—State Appropriation: For transfer to the Rural Arterial Trust Account—State. $9,331,000

((~~(8)~~)) (7) Motor Vehicle Account—State Appropriation: For transfer to the Transportation Improvement Account—State $9,688,000

((~~(9)~~)) (8) Rural Mobility Grant Program Account—State Appropriation: For transfer to the Multimodal Transportation Account—State. $3,000,000

((~~(10)~~)) (9)(a) State Route Number 520 Civil Penalties Account—State Appropriation: For transfer to the Motor Vehicle Account—State $2,000,000

(b) The transfer in this subsection is to repay moneys loaned to the state route number 520 civil penalties account in the 2019-2021 fiscal biennium.

((~~(11)~~)) (10) State Route Number 520 Civil Penalties Account—State Appropriation: For transfer to the State Route Number 520 Corridor Account—State $1,532,000

((~~(12)~~)) (11) Capital Vessel Replacement Account—State Appropriation: For transfer to the Connecting Washington Account—State $35,000,000

((~~(13)~~)) (12)(a) Capital Vessel Replacement Account—State Appropriation: For transfer to the Transportation Partnership Account—State . . . . . .((~~$1,542,000~~)) $35,547,000

(b) The amount transferred in this subsection represents ((~~repayment of debt service incurred for the construction of the Hybrid Electric Olympic Class (144-auto) Vessel #5 project (L2000329)~~)) proceeds from the sale of bonds authorized in the 2019-2021 biennium in RCW 47.10.873.

((~~(14)~~)) (13) Multimodal Transportation Account—State Appropriation: For transfer to the Complete Streets Grant Program Account—State $14,670,000

((~~(15)~~)) (14) Multimodal Transportation Account—State Appropriation: For transfer to the Connecting Washington Account—State $200,000,000

((~~(16)~~)) (15) Multimodal Transportation Account—State Appropriation: For transfer to the Freight Mobility Multimodal Account—State $4,011,000

((~~(17)~~)) (16) Multimodal Transportation Account—State Appropriation: For transfer to the Ignition Interlock Device Revolving Account—State $600,000

((~~(18)~~)) (17) Multimodal Transportation Account—State Appropriation: For transfer to the Pilotage Account—State $2,000,000

((~~(19)~~)) (18) Multimodal Transportation Account—State Appropriation: For transfer to the Puget Sound Capital Construction Account—State $816,700,000

((~~(20)~~)) (19) Multimodal Transportation Account—State Appropriation: For transfer to the Regional Mobility Grant Program Account—State $27,679,000

((~~(21)~~)) (20) Multimodal Transportation Account—State Appropriation: For transfer to the Rural Mobility Grant Program Account—State $15,223,000

((~~(22)~~)) (21)(a) Alaskan Way Viaduct Replacement Project Account—State Appropriation: For transfer to the Transportation Partnership Account—State $22,884,000

(b) The amount transferred in this subsection represents repayment of debt service incurred for the construction of the SR 99/Alaskan Way Viaduct Replacement project (809936Z).

((~~(23)~~)) (22) Tacoma Narrows Toll Bridge Account—State Appropriation: For transfer to the Motor Vehicle Account—State $950,000

((~~(24)~~)) (23) Puget Sound Ferry Operations Account—State Appropriation: For transfer to the Puget Sound Capital Construction Account—State $60,000,000

((~~(25)~~)) (24)(a) General Fund Account—State Appropriation: For transfer to the State Patrol Highway Account—State $625,000

(b) The state treasurer shall transfer the funds only after receiving notification from the Washington state patrol under section 207(2), chapter 333, Laws of 2021.

((~~(26)~~)) (25) Motor Vehicle Account—State Appropriation: For transfer to the Puget Sound Capital Construction Account—State $30,000,000

((~~(27)~~)) (26) Multimodal Transportation Account—State Appropriation: For transfer to the I-405 and SR 167 Express Toll Lanes Account—State $268,433,000

((~~(28)~~)) (27) Multimodal Transportation Account—State Appropriation: For transfer to the Move Ahead WA Account—State $874,081,000

((~~(29)~~)) (28) Multimodal Transportation Account—State Appropriation: For transfer to the State Route Number 520 Corridor Account—State $70,786,000

((~~(30)~~)) (29) Motor Vehicle Account—State Appropriation: For transfer to the Connecting Washington Account—State $80,000,000

((~~(31)~~)) (30) Move Ahead WA Account—State Appropriation: For transfer to the Connecting Washington Account—State $600,000,000

((~~(32)~~)) (31) Transportation Improvement Account—State Appropriation: For transfer to the Transportation Improvement Board Bond Retirement Account $6,451,550

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.

Passed by the House February 1, 2023.
Passed by the Senate February 8, 2023.
Approved by the Governor February 16, 2023.
Filed in Office of Secretary of State February 16, 2023.

CHAPTER 3

[Substitute Senate Bill 5810]

[Veto override of Substitute Senate Bill 5810 from 2022]

LEGAL SERVICE PLANS—INSURANCE REGULATION EXEMPTION

AN ACT Relating to exempting certain prepaid services from insurance regulation; and adding a new section to chapter 48.01 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 48.01 RCW to read as follows:

(1) It is the public policy of the state of Washington to promote ready access to legal assistance and counsel for all citizens of the state and to authorize that legal service contractors can issue legal service plans to businesses and individuals in the state of Washington.

(2) Legal service contractors are not insurers under RCW 48.01.050 and legal service plans are not insurance under RCW 48.01.040.

(3) This section does not in any way affect the practice of law in this state.

(4) This section does not apply to or affect any of the following arrangements:

(a) Retainer, fee, engagement, or representation agreements made by an attorney or firm of attorneys with any person or group other than a legal service contractor;

(b) Referral of individual clients to an attorney by a nonprofit lawyer referral service or public corporation or entity such as state or local bar association provided there is no fee or charge for such referral;

(c) Employee welfare benefit plans to the extent that state law or regulation is preempted by federal law or regulation;

(d) The provision of legal assistance to low or moderate-income persons by nonprofit legal aid organizations or legal aid programs affiliated with the Washington state bar association, a local bar association, a law school accredited by the American bar association, or a program operated in conjunction with a paralegal education program approved by the American bar association; or

(e) Policies of insurance, or coverage incidental to such insurance which may include legal defense, issued by an insurer holding a valid certificate of authority in this state and issued under applicable laws in this title pertaining to such insurance.

(5) For the purposes of this section:

(a) "Legal service contractor" means any person, entity, or group of persons, including associations, who does not engage in the practice of law or the

business of insurance and who, for consideration, provides members with access to legal services through agreements with providing attorneys.

(b) "Legal service plan" or "plan" means an arrangement between a legal service contractor and an individual or person or group of individuals or persons, whereby specified legal services may be provided to, or provided at discounted rates to members by providing attorneys in consideration of a periodic payment that does not constitute payment of attorney fees of any providing attorneys.

(c) "Member" means an individual, person, or group of individuals or persons eligible to receive legal services under a legal service plan.

(d) "Providing attorney" means an attorney licensed, in good standing, and eligible to practice law in this state who provides legal services under a providing attorney agreement in accordance with the terms of the legal service plan, and pursuant to an engagement agreement between the providing attorney and the member.

(e) "Providing attorney agreement" means a written contract or agreement between a legal service contractor and a providing attorney under which the providing attorney renders and provides legal services to members of a legal service plan.

Passed by the Senate March 7, 2022.
Passed by the House March 2, 2022.
Vetoed by the Governor March 31, 2022.
Filed in Office of Secretary of State March 27, 2023.

CHAPTER 4

[Engrossed Senate Bill 5017]

[Veto override of Engrossed Senate Bill 5017 from 2022]

SCHOOL DISTRICT PROCUREMENT—CERTAIN SERVICE CONTRACTS

AN ACT Relating to clarifying school district procurement requirements for service contracts for construction management, value engineering, constructibility review, and building commissioning; and amending RCW 28A.335.190.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 28A.335.190 and 2013 c 223 s 1 are each amended to read as follows:

(1) When, in the opinion of the board of directors of any school district, the cost of any furniture, supplies, equipment, building, improvements, or repairs, ((~~or~~)) other construction work by a contractor who meets the criteria in RCW 39.04.350, or other purchases, except books, will equal or exceed the threshold levels specified in subsections (2) and (4) of this section, complete plans and specifications for such work or purchases shall be prepared and notice by publication given in at least one newspaper of general circulation within the district, once each week for two consecutive weeks, of the intention to receive bids and that specifications and other information may be examined at the office of the board or any other officially designated location. The cost of any public work, improvement, or repair for the purposes of this section shall be the aggregate of all amounts to be paid for labor, material, and equipment on one continuous or interrelated project where work is to be performed simultaneously or in close sequence. The bids shall be in writing and shall be opened and read in

public on the date and in the place named in the notice and after being opened shall be filed for public inspection.

(2) Every purchase of furniture, equipment, or supplies, except books, the cost of which is estimated to be in excess of forty thousand dollars, shall be on a competitive basis. The board of directors shall establish a procedure for securing telephone and/or written quotations for such purchases. Whenever the estimated cost is from forty thousand dollars up to seventy-five thousand dollars, the procedure shall require quotations from at least three different sources to be obtained in writing or by telephone, and recorded for public perusal. Whenever the estimated cost is in excess of seventy-five thousand dollars, the public bidding process provided in subsection (1) of this section shall be followed.

(3) Any school district may purchase goods produced or provided in whole or in part from class II inmate work programs operated by the department of corrections pursuant to RCW 72.09.100, including but not limited to furniture, equipment, or supplies. School districts are encouraged to set as a target to contract, beginning after June 30, 2006, to purchase up to one percent of the total goods required by the school districts each year, goods produced or provided in whole or in part from class II inmate work programs operated by the department of corrections.

(4) The board may make improvements or repairs to the property of the district through a department within the district without following the public bidding process provided in subsection (1) of this section when the total of such improvements or repairs does not exceed the sum of seventy-five thousand dollars. Whenever the estimated cost of a building, improvement, repair, or other public works project is one hundred thousand dollars or more, the public bidding process provided in subsection (1) of this section shall be followed unless the contract is let using the small works roster process in RCW 39.04.155 or under any other procedure authorized for school districts. One or more school districts may authorize an educational service district to establish and operate a small works roster for the school district under the provisions of RCW 39.04.155.

(5) The contract for the work or purchase shall be awarded to the lowest responsible bidder as described in RCW 39.26.160(2) but the board may by resolution reject any and all bids and make further calls for bids in the same manner as the original call. On any work or purchase the board shall provide bidding information to any qualified bidder or the bidder's agent, requesting it in person.

(6) In the event of any emergency when the public interest or property of the district would suffer material injury or damage by delay, upon resolution of the board declaring the existence of such an emergency and reciting the facts constituting the same, the board may waive the requirements of this section with reference to any purchase or contract: PROVIDED, That an "emergency," for the purposes of this section, means a condition likely to result in immediate physical injury to persons or to property of the school district in the absence of prompt remedial action.

(7) This section does not apply to the direct purchase of school buses by school districts and educational services in accordance with RCW 28A.160.195.

(8) This section does not apply to the purchase of Washington grown food.

(9) At the discretion of the board, a school district may develop and implement policies and procedures to facilitate and maximize to the extent

practicable, purchases of Washington grown food including, but not limited to, policies that permit a percentage price preference for the purpose of procuring Washington grown food.

(10) As used in this section, "Washington grown" has the definition in RCW 15.64.060.

(11) As used in this section, "price percentage preference" means the percent by which a responsive bid from a responsible bidder whose product is a Washington grown food may exceed the lowest responsive bid submitted by a responsible bidder whose product is not a Washington grown food.

(12) For purposes of this section, "construction work" does not include the following services: (a) Construction management services; (b) value engineering; (c) constructability review; (d) building commissioning; and (e) other construction-related professional and personal services.

(13) Beginning January 1, 2023, requests for proposals or qualifications, advertisements, bids, or calls for bids pursuant to this section for the services listed under subsection (12) of this section, must include the standard clauses required under RCW 39.19.050.

(14) Beginning January 1, 2023, requests for proposals or qualifications, advertisements, bids, or calls for bids pursuant to this section for the services listed under subsection (12) of this section, are subject to the procurement requirements of chapter 39.10 or 39.80 RCW, as applicable to the method of project delivery.

(15) Beginning January 1, 2023, school districts may use interlocal agreements under chapter 39.34 RCW to procure the services listed under subsection (12) of this section only if the agreements are executed following a competitive, qualification-based procurement process for these services pursuant to chapter 39.10 or 39.80 RCW.

Passed by the Senate January 19, 2022.
Passed by the House March 4, 2022.
Vetoed by the Governor March 31, 2022.
Filed in Office of Secretary of State March 27, 2023.

CHAPTER 5

[Senate Bill 5003]

DISTRICT COURT JUDGES—SNOHOMISH COUNTY

AN ACT Relating to increasing the number of district court judges in Snohomish county; and amending RCW 3.34.010.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 3.34.010 and 2015 3rd sp.s. c 25 s 1 are each amended to read as follows:

The number of district judges to be elected in each county shall be: Adams, two; Asotin, one; Benton, five; Chelan, two; Clallam, two; Clark, six; Columbia, one; Cowlitz, three; Douglas, one; Ferry, one; Franklin, one; Garfield, one; Grant, three; Grays Harbor, two; Island, one; Jefferson, one; King, twenty-three in 2009, twenty-five in 2010, and twenty-six in 2011; Kitsap, four; Kittitas, two; Klickitat, two; Lewis, two; Lincoln, one; Mason, one; Okanogan, two; Pacific, two; Pend Oreille, one; Pierce, eleven; San Juan, one; Skagit, three; Skamania,

one; Snohomish, ((~~eight~~)) nine; Spokane, eight; Stevens, one; Thurston, three; Wahkiakum, one; Walla Walla, two; Whatcom, two; Whitman, one; Yakima, four. This number may be increased only as provided in RCW 3.34.020.

Passed by the Senate January 25, 2023.
Passed by the House March 22, 2023.
Approved by the Governor March 30, 2023.
Filed in Office of Secretary of State March 30, 2023.

CHAPTER 6

[Substitute Senate Bill 5005]

REAL PROPERTY—UNIFORM LAWS

AN ACT Relating to real property; adding a new chapter to Title 7 RCW; and adding a new chapter to Title 64 RCW.

Be it enacted by the Legislature of the State of Washington:

PART I
UNIFORM PARTITION OF HEIRS PROPERTY ACT

NEW SECTION. **Sec. 101.** SHORT TITLE. Sections 102 through 113 of this act may be known and cited as the uniform partition of heirs property act.

NEW SECTION. **Sec. 102.** DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Ascendant" means an individual who precedes another individual in lineage, in the direct line of ascent from the other individual.

(2) "Collateral" means an individual who is related to another individual under the law of intestate succession of this state but who is not the other individual's ascendant or descendant.

(3) "Descendant" means an individual who follows another individual in lineage, in the direct line of descent from the other individual.

(4) "Determination of value" means a court order determining the fair market value of heirs property under section 106 or 110 of this act or adopting the valuation of the property agreed to by all cotenants.

(5) "Heirs property" means real property held in tenancy in common that satisfies all of the following requirements as of the filing of a partition action:

(a) There is no agreement in a record binding all the cotenants which governs the partition of the property;

(b) One or more of the cotenants acquired title from a relative, whether living or deceased; and

(c) Any of the following applies:

(i) Twenty percent or more of the interests are held by cotenants who are relatives;

(ii) Twenty percent or more of the interests are held by an individual who acquired title from a relative, whether living or deceased; or

(iii) Twenty percent or more of the cotenants are relatives.

(6) "Partition by sale" means a court-ordered sale of the entire heirs property, whether by auction, sealed bids, or open market sale conducted under section 110 of this act.

(7) "Partition in kind" means the division of heirs property into physically distinct and separately titled parcels.

(8) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(9) "Relative" means an ascendant, descendant, or collateral or an individual otherwise related to another individual by blood, marriage, adoption, or law of this state.

NEW SECTION. **Sec. 103.** APPLICABILITY—RELATION TO OTHER LAW. (1) This chapter applies to partition actions filed on or after the effective date of this section.

(2) In an action to partition real property under chapter 7.52 RCW, the court shall determine whether the property is heirs property. If the court determines that the property is heirs property, the property must be partitioned under this chapter unless all of the cotenants otherwise agree in a record.

(3) This chapter supplements chapter 7.52 RCW and, if an action is governed by this chapter, replaces provisions of chapter 7.52 RCW that are inconsistent with this chapter.

NEW SECTION. **Sec. 104.** SERVICE—NOTICE BY POSTING. (1) This chapter does not limit or affect the method by which service of a complaint in a partition action may be made.

(2) If the plaintiff in a partition action seeks an order of notice by publication and the court determines that the property may be heirs property, the plaintiff, not later than 10 days after the court's determination, shall post and maintain while the action is pending a conspicuous sign on the property that is the subject of the action. The sign must state that the action has commenced and identify the name and address of the court and the common designation by which the property is known. The court may require the plaintiff to publish on the sign the name of the plaintiff and the known defendants.

NEW SECTION. **Sec. 105.** REFEREES. If the court appoints referees pursuant to chapter 7.52 RCW, each referee, in addition to the requirements and disqualifications applicable to referees in chapter 7.52 RCW, must be disinterested and impartial and not a party to or a participant in the action.

NEW SECTION. **Sec. 106.** DETERMINATION OF VALUE. (1) Except as otherwise provided in subsections (2) and (3) of this section, if the court determines that the property that is the subject of a partition action is heirs property, the court shall determine the fair market value of the property by ordering an appraisal pursuant to subsection (4) of this section.

(2) If all cotenants have agreed to the value of the property or to another method of valuation, the court shall adopt that value or the value produced by the agreed method of valuation.

(3) If the court determines that the evidentiary value of an appraisal is outweighed by the cost of the appraisal, the court, after an evidentiary hearing, shall determine the fair market value of the property and send notice to the parties of the value.

(4) If the court orders an appraisal, the court shall appoint a disinterested real estate appraiser licensed in this state to determine the fair market value of the property assuming sole ownership of the fee simple estate. On completion of the appraisal, the appraiser shall file a sworn or verified appraisal with the court.

(5) If an appraisal is conducted pursuant to subsection (4) of this section, not later than 10 days after the appraisal is filed, the court shall send notice to each party with a known address, stating:

(a) The appraised fair market value of the property;

(b) That the appraisal is available at the clerk's office; and

(c) That a party may file with the court an objection to the appraisal not later than 30 days after the notice is sent, stating the grounds for the objection.

(6) If an appraisal is filed with the court pursuant to subsection (4) of this section, the court shall conduct a hearing to determine the fair market value of the property not sooner than 30 days after a copy of the notice of the appraisal is sent to each party under subsection (5) of this section, whether or not an objection to the appraisal is filed under subsection (5)(c) of this section. In addition to the court-ordered appraisal, the court may consider any other evidence of value offered by a party.

(7) After a hearing under subsection (6) of this section, but before considering the merits of the partition action, the court shall determine the fair market value of the property and send notice to the parties of the value.

NEW SECTION. **Sec. 107.** COTENANT BUYOUT. (1) If any cotenant requested partition by sale, after the determination of value under section 106 of this act, the court shall send notice to the parties that any cotenant except a cotenant that requested partition by sale may buy all the interests of the cotenants that requested partition by sale.

(2) Not later than 45 days after the notice is sent under subsection (1) of this section, any cotenant except a cotenant that requested partition by sale may give notice to the court that it elects to buy all the interests of the cotenants that requested partition by sale.

(3) The purchase price for each of the interests of a cotenant that requested partition by sale is the value of the entire parcel determined under section 106 of this act multiplied by the cotenant's fractional ownership of the entire parcel.

(4) After expiration of the period in subsection (2) of this section, the following rules apply:

(a) If only one cotenant elects to buy all the interests of the cotenants that requested partition by sale, the court shall notify all the parties of that fact.

(b) If more than one cotenant elects to buy all the interests of the cotenants that requested partition by sale, the court shall allocate the right to buy those interests among the electing cotenants based on each electing cotenant's existing fractional ownership of the entire parcel divided by the total existing fractional ownership of all cotenants electing to buy and send notice to all the parties of that fact and of the price to be paid by each electing cotenant.

(c) If no cotenant elects to buy all the interests of the cotenants that requested partition by sale, the court shall send notice to all the parties of that fact and resolve the partition action under section 108 (1) and (2) of this act.

(5) If the court sends notice to the parties under subsection (4)(a) or (b) of this section, the court shall set a date, not sooner than 60 days after the date the notice was sent, by which electing cotenants must pay their apportioned price into the court. After this date, the following rules apply:

(a) If all electing cotenants timely pay their apportioned price into court, the court shall issue an order reallocating all the interests of the cotenants and disburse the amounts held by the court to the persons entitled to them.

(b) If no electing cotenant timely pays its apportioned price, the court shall resolve the partition action under section 108 (1) and (2) of this act as if the interests of the cotenants that requested partition by sale were not purchased.

(c) If one or more but not all of the electing cotenants fail to pay their apportioned price on time, the court, on motion, shall give notice to the electing cotenants that paid their apportioned price of the interest remaining and the price for all that interest.

(6) Not later than 20 days after the court gives notice pursuant to subsection (5)(c) of this section, any cotenant that paid may elect to purchase all of the remaining interest by paying the entire price into the court. After the 20-day period, the following rules apply:

(a) If only one cotenant pays the entire price for the remaining interest, the court shall issue an order reallocating the remaining interest to that cotenant. The court shall issue promptly an order reallocating the interests of all of the cotenants and disburse the amounts held by it to the persons entitled to them.

(b) If no cotenant pays the entire price for the remaining interest, the court shall resolve the partition action under section 108 (1) and (2) of this act as if the interests of the cotenants that requested partition by sale were not purchased.

(c) If more than one cotenant pays the entire price for the remaining interest, the court shall reapportion the remaining interest among those paying cotenants, based on each paying cotenant's original fractional ownership of the entire parcel divided by the total original fractional ownership of all cotenants that paid the entire price for the remaining interest. The court shall issue promptly an order reallocating all of the cotenants' interests, disburse the amounts held by it to the persons entitled to them, and promptly refund any excess payment held by the court.

(7) Not later than 45 days after the court sends notice to the parties pursuant to subsection (1) of this section, any cotenant entitled to buy an interest under this section may request the court to authorize the sale as part of the pending action of the interests of cotenants named as defendants and served with the complaint but that did not appear in the action.

(8) If the court receives a timely request under subsection (7) of this section, the court, after hearing, may deny the request or authorize the requested additional sale on such terms as the court determines are fair and reasonable, subject to the following limitations:

(a) A sale authorized under this subsection may occur only after the purchase prices for all interests subject to sale under subsections (1) through (6) of this section have been paid into court and those interests have been reallocated among the cotenants as provided in those subsections; and

(b) The purchase price for the interest of a nonappearing cotenant is based on the court's determination of value under section 106 of this act.

NEW SECTION. **Sec. 108.** PARTITION ALTERNATIVES. (1) If all the interests of all cotenants that requested partition by sale are not purchased by other cotenants pursuant to section 107 of this act, or if after conclusion of the buyout under section 107 of this act, a cotenant remains that has requested partition in kind, the court shall order partition in kind unless the court, after consideration of the factors listed in section 109 of this act, finds that partition in kind will result in great prejudice to the cotenants as a group. In considering

whether to order partition in kind, the court shall approve a request by two or more parties to have their individual interests aggregated.

(2) If the court does not order partition in kind under subsection (1) of this section, the court shall order partition by sale pursuant to section 110 of this act or, if no cotenant requested partition by sale, the court shall dismiss the action.

(3) If the court orders partition in kind pursuant to subsection (1) of this section, the court may require that one or more cotenants pay one or more other cotenants amounts so that the payments, taken together with the value of the in-kind distributions to the cotenants, will make the partition in kind just and proportionate in value to the fractional interests held.

(4) If the court orders partition in kind, the court shall allocate to the cotenants that are unknown, unlocatable, or the subject of a default judgment, if their interests were not bought out pursuant to section 107 of this act, a part of the property representing the combined interests of these cotenants as determined by the court and this part of the property shall remain undivided.

NEW SECTION. **Sec. 109.** CONSIDERATIONS FOR PARTITION IN KIND. (1) In determining under section 108(1) of this act whether partition in kind would result in great prejudice to the cotenants as a group, the court shall consider the following:

(a) Whether the heirs property practicably can be divided among the cotenants;

(b) Whether partition in kind would apportion the property in such a way that the aggregate fair market value of the parcels resulting from the division would be materially less than the value of the property if it were sold as a whole, taking into account the condition under which a court-ordered sale likely would occur;

(c) Evidence of the collective duration of ownership or possession of the property by a cotenant and one or more predecessors in title or predecessors in possession to the cotenant who are or were relatives of the cotenant or each other;

(d) A cotenant's sentimental attachment to the property, including any attachment arising because the property has ancestral or other unique or special value to the cotenant;

(e) The lawful use being made of the property by a cotenant and the degree to which the cotenant would be harmed if the cotenant could not continue the same use of the property;

(f) The degree to which the cotenants have contributed their pro rata share of the property taxes, insurance, and other expenses associated with maintaining ownership of the property or have contributed to the physical improvement, maintenance, or upkeep of the property; and

(g) Any other relevant factor.

(2) The court may not consider any one factor in subsection (1) of this section to be dispositive without weighing the totality of all relevant factors and circumstances.

NEW SECTION. **Sec. 110.** OPEN MARKET SALE, SEALED BIDS, OR AUCTION. (1) If the court orders a sale of heirs property, the sale must be an open market sale unless the court finds that a sale by sealed bids or an auction

would be more economically advantageous and in the best interest of the cotenants as a group.

(2) If the court orders an open market sale and the parties, not later than 10 days after the entry of the order, agree on a real estate broker licensed in this state to offer the property for sale, the court shall appoint the broker and establish a reasonable commission. If the parties do not agree on a broker, the court shall appoint a disinterested real estate broker licensed in this state to offer the property for sale and shall establish a reasonable commission. The broker shall offer the property for sale in a commercially reasonable manner at a price no lower than the determination of value and on the terms and conditions established by the court.

(3) If the broker appointed under subsection (2) of this section obtains within a reasonable time an offer to purchase the property for at least the determination of value:

(a) The broker shall comply with the reporting requirements in section 111 of this act; and

(b) The sale may be completed in accordance with state law other than this chapter.

(4) If the broker appointed under subsection (2) of this section does not obtain within a reasonable time an offer to purchase the property for at least the determination of value, the court, after hearing, may:

(a) Approve the highest outstanding offer, if any;

(b) Redetermine the value of the property and order that the property continue to be offered for an additional time; or

(c) Order that the property be sold by sealed bids or at an auction.

(5) If the court orders a sale by sealed bids or an auction, the court shall set terms and conditions of the sale. If the court orders an auction, the auction must be conducted under chapter 7.52 RCW.

(6) If a purchaser is entitled to a share of the proceeds of the sale, the purchaser is entitled to a credit against the price in an amount equal to the purchaser's share of the proceeds.

NEW SECTION. **Sec. 111.** REPORT OF OPEN MARKET SALE. (1) Unless required to do so within a shorter time under chapter 7.52 RCW, a broker appointed under section 110(1) of this act to offer heirs property for open market sale shall file a report with the court not later than seven days after receiving an offer to purchase the property for at least the value determined under section 106 or 110 of this act.

(2) The report required by subsection (1) of this section must contain the following information:

(a) A description of the property to be sold to each buyer;

(b) The name of each buyer;

(c) The proposed purchase price;

(d) The terms and conditions of the proposed sale, including the terms of any owner financing;

(e) The amounts to be paid to lienholders;

(f) A statement of contractual or other arrangements or conditions of the broker's commission; and

(g) Other material facts relevant to the sale.

NEW SECTION. **Sec. 112.** UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

NEW SECTION. **Sec. 113.** RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This chapter modifies, limits, and supersedes the electronic signatures in global and national commerce act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

NEW SECTION. **Sec. 114.** Sections 101 through 113 of this act constitute a new chapter in Title 7 RCW.

PART II
UNIFORM EASEMENT RELOCATION ACT

NEW SECTION. **Sec. 201.** SHORT TITLE. Sections 202 through 214 of this act may be known and cited as the uniform easement relocation act.

NEW SECTION. **Sec. 202.** DEFINITIONS. The following definitions apply throughout the section unless the context clearly requires otherwise.

(1) "Appurtenant easement" means an easement tied to or dependent on ownership or occupancy of a unit or a parcel of real property.

(2) "Conservation easement" means a nonpossessory property interest created for one or more of the following conservation purposes:

(a) Retaining or protecting the natural, scenic, wildlife, wildlife habitat, biological, ecological, or open space values of real property;

(b) Ensuring the availability of real property for agricultural, forest, outdoor recreational, or open space uses;

(c) Protecting natural resources, including wetlands, grasslands, and riparian areas;

(d) Maintaining or enhancing air or water quality; or

(e) Preserving the historical, architectural, archeological, paleontological, or cultural aspects of real property.

(3) "Dominant estate" means an estate or interest in real property benefited by an appurtenant easement.

(4) "Easement" means a nonpossessory property interest that:

(a) Provides a right to enter, use, or enjoy real property owned by or in the possession of another; and

(b) Imposes on the owner or possessor a duty not to interfere with the entry, use, or enjoyment permitted by the instrument creating the easement or, in the case of an easement not established by express grant or reservation, the entry, use, or enjoyment authorized by law.

(5) "Easement holder" means:

(a) In the case of an appurtenant easement, the dominant estate owner; or

(b) In the case of an easement in gross, public utility easement, conservation easement, or negative easement, the grantee of the easement or a successor.

(6) "Easement in gross" means an easement not tied to or dependent on ownership or occupancy of a unit or a parcel of real property.

(7) "Lessee of record" means a person holding a lessee's interest under a recorded lease or memorandum of lease.

(8) "Negative easement" means a nonpossessory property interest whose primary purpose is to impose on a servient estate owner a duty not to engage in a specified use of the estate.

(9) "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(10) "Public utility easement" means a nonpossessory property interest in which the easement holder is a publicly regulated or publicly owned utility under federal law or law of this state or a municipality. The term includes an easement benefiting an intrastate utility, an interstate utility, or a utility cooperative.

(11) "Real property" means an estate or interest in, over, or under land, including structures, fixtures, and other things that by custom, usage, or law pass with a conveyance of land whether or not described or mentioned in the contract of sale or instrument of conveyance. The term includes the interest of a lessor and lessee and, unless the interest is personal property under law of this state other than this chapter, an interest in a common interest community.

(12) "Record," used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(13) "Security instrument" means a mortgage, deed of trust, security deed, contract for deed, lease, or other record that creates or provides for an interest in real property to secure payment or performance of an obligation, whether by acquisition or retention of a lien, a lessor's interest under a lease, or title to the real property. The term includes:

(a) A security instrument that also creates or provides for a security interest in personal property;

(b) A modification or amendment of a security instrument; and

(c) A record creating a lien on real property to secure an obligation under a covenant running with the real property or owed by a unit owner to a common interest community association.

(14) "Security interest holder of record" means a person holding an interest in real property created by a recorded security instrument.

(15) "Servient estate" means an estate or interest in real property that is burdened by an easement.

(16) "Title evidence" means a title insurance policy, preliminary title report or binder, title insurance commitment, abstract of title, attorney's opinion of title based on examination of public records or an abstract of title, or any other means of reporting the state of title to real property which is customary in the locality.

(17) "Unit" means a physical portion of a common interest community designated for separate ownership or occupancy with boundaries described in a declaration establishing the common interest community.

(18) "Utility cooperative" means a nonprofit entity whose purpose is to deliver a utility service, such as electricity, oil, natural gas, water, sanitary sewer, stormwater, or telecommunications, to its customers or members and includes an electric cooperative, rural electric cooperative, rural water district, and rural water association.

NEW SECTION. **Sec. 203.** SCOPE—EXCLUSIONS. (1) Except as otherwise provided in subsection (2) of this section, this chapter applies to an easement established by express grant or reservation or by prescription, implication, necessity, estoppel, or other method.

(2) This chapter may not be used to relocate:

(a) A public utility easement, conservation easement, or negative easement; or

(b) An easement if the proposed location would encroach on an area of an estate burdened by a conservation easement or would interfere with the use or enjoyment of a public utility easement or an easement appurtenant to a conservation easement.

(3) This chapter does not apply to relocation of an easement by consent.

NEW SECTION. **Sec. 204.** RIGHT OF SERVIENT ESTATE OWNER TO RELOCATE EASEMENT. A servient estate owner may relocate an easement under this chapter only if the relocation does not materially:

(1) Lessen the utility of the easement;

(2) After the relocation, increase the burden on the easement holder in its reasonable use and enjoyment of the easement;

(3) Impair an affirmative, easement-related purpose for which the easement was created;

(4) During or after the relocation, impair the safety of the easement holder or another entitled to use and enjoy the easement;

(5) During the relocation, disrupt the use and enjoyment of the easement by the easement holder or another entitled to use and enjoy the easement, unless the servient estate owner substantially mitigates the duration and nature of the disruption;

(6) Impair the physical condition, use, or value of the dominant estate or improvements on the dominant estate; or

(7) Impair the value of the collateral of a security interest holder of record in the servient estate or dominant estate, impair a real property interest of a lessee of record in the dominant estate, or impair a recorded real property interest of any other person in the servient estate or dominant estate.

NEW SECTION. **Sec. 205.** COMMENCEMENT OF CIVIL ACTION. (1) To obtain an order to relocate an easement under this chapter, a servient estate owner must commence a civil action.

(2) A servient estate owner that commences a civil action under subsection (1) of this section:

(a) Shall serve a summons and complaint on:

(i) The easement holder whose easement is the subject of the relocation;

(ii) A security interest holder of record of an interest in the servient estate or dominant estate;

(iii) A lessee of record of an interest in the dominant estate; and

(iv) Except as otherwise provided in (b) of this subsection, any other owner of a recorded real property interest if the relocation would encroach on an area of the servient estate or dominant estate burdened by the interest; and

(b) Is not required to serve a summons and complaint on the owner of a recorded real property interest in oil, gas, or minerals unless the interest includes an easement to facilitate oil, gas, or mineral development.

(3) A complaint under this section must state:

(a) The intent of the servient estate owner to seek the relocation;

(b) The nature, extent, and anticipated dates of commencement and completion of the proposed relocation;

(c) The current and proposed locations of the easement;

(d) The reason the easement is eligible for relocation under section 203 of this act;

(e) The reason the proposed relocation satisfies the conditions for relocation under section 204 of this act; and

(f) That the servient estate owner has made a reasonable attempt to notify the holders of any public utility easement, conservation easement, or negative easement on the servient estate or dominant estate of the proposed relocation.

(4) At any time before the court renders a final order in an action under subsection (1) of this section, a person served under subsection (2)(a)(ii), (iii), or (iv) of this section may file a document, in recordable form, that waives its rights to contest or obtain relief in connection with the relocation or subordinates its interests to the relocation. On filing of the document, the court may order that the person is not required to answer or participate further in the action.

NEW SECTION. **Sec. 206.** REQUIRED FINDINGS—ORDER. (1) The court may not approve relocation of an easement under this chapter unless the servient estate owner:

(a) Establishes that the easement is eligible for relocation under section 203 of this act; and

(b) Satisfies the conditions for relocation under section 204 of this act.

(2) An order under this chapter approving relocation of an easement must:

(a) State that the order is issued in accordance with this chapter;

(b) Recite the recording data of the instrument creating the easement, if any, any amendments, and any preservation notice;

(c) Identify the immediately preceding location of the easement;

(d) Describe in a legally sufficient manner the new location of the easement;

(e) Describe mitigation required of the servient estate owner during relocation;

(f) Refer in detail to the plans and specifications of improvements necessary for the easement holder to enter, use, and enjoy the easement in the new location;

(g) Specify conditions to be satisfied by the servient estate owner to relocate the easement and construct improvements necessary for the easement holder to enter, use, and enjoy the easement in the new location;

(h) Include a provision for payment by the servient estate owner of expenses under section 207 of this act;

(i) Include a provision for compliance by the parties with the obligation of good faith under section 208 of this act; and

(j) Instruct the servient estate owner to record an affidavit, if required under section 209(1) of this act, when the servient estate owner substantially completes relocation.

(3) An order under subsection (2) of this section may include any other provision consistent with this chapter for the fair and equitable relocation of the easement.

(4) Before a servient estate owner proceeds with relocation of an easement under this chapter, the owner must record, in the land records of each jurisdiction

where the servient estate is located, a certified copy of the order under subsection (2) of this section.

NEW SECTION. **Sec. 207.** EXPENSES OF RELOCATION. A servient estate owner is responsible for reasonable expenses of relocation of an easement under this chapter, including the expense of:

(1) Constructing improvements on the servient estate or dominant estate in accordance with an order under section 206 of this act;

(2) During the relocation, mitigating disruption in the use and enjoyment of the easement by the easement holder or another person entitled to use and enjoy the easement;

(3) Obtaining a governmental approval or permit to relocate the easement and construct necessary improvements;

(4) Preparing and recording the certified copy required by section 206(4) of this act and any other document required to be recorded;

(5) Any title work required to complete the relocation or required by a party to the civil action as a result of the relocation;

(6) Applicable premiums for title insurance related to the relocation;

(7) Any expert necessary to review plans and specifications for an improvement to be constructed in the relocated easement or on the dominant estate and to confirm compliance with the plans and specifications referred to in the order under section 206(2)(f) of this act;

(8) Payment of any maintenance cost associated with the relocated easement which is greater than the maintenance cost associated with the easement before relocation; and

(9) Obtaining any third-party consent required to relocate the easement.

NEW SECTION. **Sec. 208.** DUTY TO ACT IN GOOD FAITH. After the court, under section 206 of this act, approves relocation of an easement and the servient estate owner commences the relocation, the servient estate owner, the easement holder, and other parties in the civil action shall act in good faith to facilitate the relocation in compliance with this chapter.

NEW SECTION. **Sec. 209.** RELOCATION AFFIDAVIT. (1) If an order under section 206 of this act requires the construction of an improvement as a condition for relocation of an easement, relocation is substantially complete, and the easement holder is able to enter, use, and enjoy the easement in the new location, the servient estate owner shall:

(a) Record, in the land records of each jurisdiction where the servient estate is located, an affidavit certifying that the easement has been relocated; and

(b) Send, by certified mail, a copy of the recorded affidavit to the easement holder and parties to the civil action.

(2) Until an affidavit under subsection (1) of this section is recorded and sent, the easement holder may enter, use, and enjoy the easement in the current location, subject to the court's order under section 206 of this act approving relocation.

(3) If an order under section 206 of this act does not require an improvement to be constructed as a condition of the relocation, recording the order under section 206(4) of this act constitutes relocation.

NEW SECTION. **Sec. 210.** LIMITED EFFECT OF RELOCATION. (1) Relocation of an easement under this chapter:

(a) Is not a new transfer or a new grant of an interest in the servient estate or the dominant estate;

(b) Is not a breach or default of, and does not trigger, a due-on-sale clause or other transfer-restriction clause under a security instrument, except as otherwise determined by a court under law other than this chapter;

(c) Is not a breach or default of a lease, except as otherwise determined by a court under law other than this chapter;

(d) Is not a breach or default by the servient estate owner of a recorded document affected by the relocation, except as otherwise determined by a court under law other than this chapter;

(e) Does not affect the priority of the easement with respect to other recorded real property interests burdening the area of the servient estate where the easement was located before the relocation; and

(f) Is not a fraudulent conveyance or voidable transaction under law.

(2) This chapter does not affect any other method of relocating an easement permitted under law of this state other than this chapter.

NEW SECTION. **Sec. 211.** NONWAIVER. The right of a servient estate owner to relocate an easement under this chapter may not be waived, excluded, or restricted by agreement even if:

(1) The instrument creating the easement prohibits relocation or contains a waiver, exclusion, or restriction of this chapter;

(2) The instrument creating the easement requires consent of the easement holder to amend the terms of the easement; or

(3) The location of the easement is fixed by the instrument creating the easement, another agreement, previous conduct, acquiescence, estoppel, or implication.

NEW SECTION. **Sec. 212.** UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among the states that enact it.

NEW SECTION. **Sec. 213.** RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This chapter modifies, limits, or supersedes the electronic signatures in global and national commerce act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

NEW SECTION. **Sec. 214.** TRANSITIONAL PROVISION. This chapter applies to an easement created before, on, or after the effective date of this section.

NEW SECTION. **Sec. 215.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 216.** Sections 201 through 214 of this act constitute a new chapter in Title 64 RCW.

Passed by the Senate February 8, 2023.

Passed by the House March 20, 2023.

Approved by the Governor March 30, 2023.
Filed in Office of Secretary of State March 30, 2023.

CHAPTER 7

[Substitute Senate Bill 5033]

CUSTODIAL SEXUAL MISCONDUCT—RECLASSIFICATION

AN ACT Relating to reclassifying the sentence for the crime of custodial sexual misconduct; amending RCW 9A.44.160, 9A.44.170, and 9.94A.515; creating a new section; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 9A.44.160 and 1999 c 45 s 1 are each amended to read as follows:

(1) A person is guilty of custodial sexual misconduct in the first degree when the person has sexual intercourse with another person:

(a) When:

(i) The victim is a resident of a state, county, or city adult or juvenile correctional facility, including but not limited to jails, prisons, detention centers, or work release facilities, or is under correctional supervision; and

(ii) The perpetrator is an employee or contract personnel of a correctional agency and the perpetrator has, or the victim reasonably believes the perpetrator has, the ability to influence the terms, conditions, length, or fact of incarceration or correctional supervision; or

(b) When the victim is being detained, under arrest((~~(,)~~)), or in the custody of a law enforcement officer and the perpetrator is a law enforcement officer.

(2) Consent of the victim is not a defense to a prosecution under this section.

(3) Custodial sexual misconduct in the first degree is a class ((~~C~~)) B felony.

Sec. 2. RCW 9A.44.170 and 1999 c 45 s 2 are each amended to read as follows:

(1) A person is guilty of custodial sexual misconduct in the second degree when the person has sexual contact with another person:

(a) When:

(i) The victim is a resident of a state, county, or city adult or juvenile correctional facility, including but not limited to jails, prisons, detention centers, or work release facilities, or is under correctional supervision; and

(ii) The perpetrator is an employee or contract personnel of a correctional agency and the perpetrator has, or the victim reasonably believes the perpetrator has, the ability to influence the terms, conditions, length, or fact of incarceration or correctional supervision; or

(b) When the victim is being detained, under arrest, or in the custody of a law enforcement officer and the perpetrator is a law enforcement officer.

(2) Consent of the victim is not a defense to a prosecution under this section.

(3) Custodial sexual misconduct in the second degree is a ((~~gross misdemeanor~~)) class C felony.

Sec. 3. RCW 9.94A.515 and 2022 c 231 s 13 are each amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055)
	Malicious explosion 1 (RCW 70.74.280(1))
	Murder 1 (RCW 9A.32.030)
XIV	Murder 2 (RCW 9A.32.050)
	Trafficking 1 (RCW 9A.40.100(1))
XIII	Malicious explosion 2 (RCW 70.74.280(2))
	Malicious placement of an explosive 1 (RCW 70.74.270(1))
XII	Assault 1 (RCW 9A.36.011)
	Assault of a Child 1 (RCW 9A.36.120)
	Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))
	Promoting Commercial Sexual Abuse of a Minor (RCW 9.68A.101)
	Rape 1 (RCW 9A.44.040)
	Rape of a Child 1 (RCW 9A.44.073)
	Trafficking 2 (RCW 9A.40.100(3))
XI	Manslaughter 1 (RCW 9A.32.060)
	Rape 2 (RCW 9A.44.050)
	Rape of a Child 2 (RCW 9A.44.076)
	Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)
	Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)
X	Child Molestation 1 (RCW 9A.44.083)
	Criminal Mistreatment 1 (RCW 9A.42.020)
	Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))
	Kidnapping 1 (RCW 9A.40.020)
	Leading Organized Crime (RCW 9A.82.060(1)(a))

	CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL
	Malicious explosion 3 (RCW 70.74.280(3))
	Sexually Violent Predator Escape (RCW 9A.76.115)
IX	Abandonment of Dependent Person 1 (RCW 9A.42.060)
	Assault of a Child 2 (RCW 9A.36.130)
	Explosive devices prohibited (RCW 70.74.180)
	Hit and Run—Death (RCW 46.52.020(4)(a))
	Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050)
	Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
	Malicious placement of an explosive 2 (RCW 70.74.270(2))
	Robbery 1 (RCW 9A.56.200)
	Sexual Exploitation (RCW 9.68A.040)
VIII	Arson 1 (RCW 9A.48.020)
	Commercial Sexual Abuse of a Minor (RCW 9.68A.100)
	Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)
	Manslaughter 2 (RCW 9A.32.070)
	Promoting Prostitution 1 (RCW 9A.88.070)
	Theft of Ammonia (RCW 69.55.010)
VII	Air bag diagnostic systems (causing bodily injury or death) (RCW 46.37.660(2)(b))
	Air bag replacement requirements (causing bodily injury or death) (RCW 46.37.660(1)(b))
	Burglary 1 (RCW 9A.52.020)
	Child Molestation 2 (RCW 9A.44.086)

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

Civil Disorder Training (RCW 9A.48.120)

Custodial Sexual Misconduct 1 (RCW 9A.44.160)

Dealing in depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.050(1))

Drive-by Shooting (RCW 9A.36.045)

False Reporting 1 (RCW 9A.84.040(2)(a))

Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)

Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))

Introducing Contraband 1 (RCW 9A.76.140)

Malicious placement of an explosive 3 (RCW 70.74.270(3))

Manufacture or import counterfeit, nonfunctional, damaged, or previously deployed air bag (causing bodily injury or death) (RCW 46.37.650(1)(b))

Negligently Causing Death By Use of a Signal Preemption Device (RCW 46.37.675)

Sell, install, or reinstall counterfeit, nonfunctional, damaged, or previously deployed airbag (RCW 46.37.650(2)(b))

Sending, bringing into state depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.060(1))

Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1))

	CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL
	Use of a Machine Gun or Bump-fire Stock in Commission of a Felony (RCW 9.41.225)
	Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
VI	Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a))
	Bribery (RCW 9A.68.010)
	Incest 1 (RCW 9A.64.020(1))
	Intimidating a Judge (RCW 9A.72.160)
	Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
	Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))
	Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.070(1))
	Rape of a Child 3 (RCW 9A.44.079)
	Theft of a Firearm (RCW 9A.56.300)
	Theft from a Vulnerable Adult 1 (RCW 9A.56.400(1))
	Unlawful Storage of Ammonia (RCW 69.55.020)
V	Abandonment of Dependent Person 2 (RCW 9A.42.070)
	Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
	Air bag diagnostic systems (RCW 46.37.660(2)(c))
	Air bag replacement requirements (RCW 46.37.660(1)(c))
	Bail Jumping with class A Felony (RCW 9A.76.170(3)(b))
	Child Molestation 3 (RCW 9A.44.089)
	Criminal Mistreatment 2 (RCW 9A.42.030)

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

((~~Custodial Sexual Misconduct 1 (RCW 9A.44.160)~~))

Custodial Sexual Misconduct 2 (RCW 9A.44.170)

Dealing in Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.050(2))

Domestic Violence Court Order Violation (RCW 7.105.450, 10.99.040, 10.99.050, 26.09.300, 26.10.220, 26.26B.050, 26.50.110, 26.52.070, or 74.34.145)

Extortion 1 (RCW 9A.56.120)

Extortionate Extension of Credit (RCW 9A.82.020)

Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)

Incest 2 (RCW 9A.64.020(2))

Kidnapping 2 (RCW 9A.40.030)

Manufacture or import counterfeit, nonfunctional, damaged, or previously deployed air bag (RCW 46.37.650(1)(c))

Perjury 1 (RCW 9A.72.020)

Persistent prison misbehavior (RCW 9.94.070)

Possession of a Stolen Firearm (RCW 9A.56.310)

Rape 3 (RCW 9A.44.060)

Rendering Criminal Assistance 1 (RCW 9A.76.070)

Sell, install, or reinstall counterfeit, nonfunctional, damaged, or previously deployed airbag (RCW 46.37.650(2)(c))

Sending, Bringing into State Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.060(2))

	CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL
	Sexual Misconduct with a Minor 1 (RCW 9A.44.093)
	Sexually Violating Human Remains (RCW 9A.44.105)
	Stalking (RCW 9A.46.110)
	Taking Motor Vehicle Without Permission 1 (RCW 9A.56.070)
IV	Arson 2 (RCW 9A.48.030)
	Assault 2 (RCW 9A.36.021)
	Assault 3 (of a Peace Officer with a Projectile Stun Gun) (RCW 9A.36.031(1)(h))
	Assault 4 (third domestic violence offense) (RCW 9A.36.041(3))
	Assault by Watercraft (RCW 79A.60.060)
	Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
	Cheating 1 (RCW 9.46.1961)
	Commercial Bribery (RCW 9A.68.060)
	Counterfeiting (RCW 9.16.035(4))
	Driving While Under the Influence (RCW 46.61.502(6))
	Endangerment with a Controlled Substance (RCW 9A.42.100)
	Escape 1 (RCW 9A.76.110)
	Hate Crime (RCW 9A.36.080)
	Hit and Run—Injury (RCW 46.52.020(4)(b))
	Hit and Run with Vessel—Injury Accident (RCW 79A.60.200(3))
	Identity Theft 1 (RCW 9.35.020(2))
	Indecent Exposure to Person Under Age 14 (subsequent sex offense) (RCW 9A.88.010)
	Influencing Outcome of Sporting Event (RCW 9A.82.070)

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

Physical Control of a Vehicle While Under the Influence (RCW 46.61.504(6))

Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.070(2))

Residential Burglary (RCW 9A.52.025)

Robbery 2 (RCW 9A.56.210)

Theft of Livestock 1 (RCW 9A.56.080)

Threats to Bomb (RCW 9.61.160)

Trafficking in Stolen Property 1 (RCW 9A.82.050)

Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(b))

Unlawful transaction of health coverage as a health care service contractor (RCW 48.44.016(3))

Unlawful transaction of health coverage as a health maintenance organization (RCW 48.46.033(3))

Unlawful transaction of insurance business (RCW 48.15.023(3))

Unlicensed practice as an insurance professional (RCW 48.17.063(2))

Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))

Vehicle Prowling 2 (third or subsequent offense) (RCW 9A.52.100(3))

Vehicular Assault, by being under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522)

Viewing of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.075(1))

Willful Failure to Return from Furlough (RCW 72.66.060)

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

III Animal Cruelty 1 (Sexual Conduct or Contact) (RCW 16.52.205(3))

Assault 3 (Except Assault 3 of a Peace Officer With a Projectile Stun Gun) (RCW 9A.36.031 except subsection (1)(h))

Assault of a Child 3 (RCW 9A.36.140)

Bail Jumping with class B or C Felony (RCW 9A.76.170(3)(c))

Burglary 2 (RCW 9A.52.030)

Communication with a Minor for Immoral Purposes (RCW 9.68A.090)

Criminal Gang Intimidation (RCW 9A.46.120)

Custodial Assault (RCW 9A.36.100)

Cyber Harassment (RCW 9A.90.120(2)(b))

Escape 2 (RCW 9A.76.120)

Extortion 2 (RCW 9A.56.130)

False Reporting 2 (RCW 9A.84.040(2)(b))

Harassment (RCW 9A.46.020)

Intimidating a Public Servant (RCW 9A.76.180)

Introducing Contraband 2 (RCW 9A.76.150)

Malicious Injury to Railroad Property (RCW 81.60.070)

Manufacture of Untraceable Firearm with Intent to Sell (RCW 9.41.190)

Manufacture or Assembly of an Undetectable Firearm or Untraceable Firearm (RCW 9.41.325)

Mortgage Fraud (RCW 19.144.080)

Negligently Causing Substantial Bodily Harm By Use of a Signal Preemption Device (RCW 46.37.674)

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

Organized Retail Theft 1 (RCW 9A.56.350(2))

Perjury 2 (RCW 9A.72.030)

Possession of Incendiary Device (RCW 9.40.120)

Possession of Machine Gun, Bump-Fire Stock, Undetectable Firearm, or Short-Barreled Shotgun or Rifle (RCW 9.41.190)

Promoting Prostitution 2 (RCW 9A.88.080)

Retail Theft with Special Circumstances 1 (RCW 9A.56.360(2))

Securities Act violation (RCW 21.20.400)

Tampering with a Witness (RCW 9A.72.120)

Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230(2))

Theft of Livestock 2 (RCW 9A.56.083)

Theft with the Intent to Resell 1 (RCW 9A.56.340(2))

Trafficking in Stolen Property 2 (RCW 9A.82.055)

Unlawful Hunting of Big Game 1 (RCW 77.15.410(3)(b))

Unlawful Imprisonment (RCW 9A.40.040)

Unlawful Misbranding of Fish or Shellfish 1 (RCW 77.140.060(3))

Unlawful possession of firearm in the second degree (RCW 9.41.040(2))

Unlawful Taking of Endangered Fish or Wildlife 1 (RCW 77.15.120(3)(b))

Unlawful Trafficking in Fish, Shellfish, or Wildlife 1 (RCW 77.15.260(3)(b))

Unlawful Use of a Nondesignated Vessel (RCW 77.15.530(4))

	CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL
	Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)
	Willful Failure to Return from Work Release (RCW 72.65.070)
II	Commercial Fishing Without a License 1 (RCW 77.15.500(3)(b))
	Computer Trespass 1 (RCW 9A.90.040)
	Counterfeiting (RCW 9.16.035(3))
	Electronic Data Service Interference (RCW 9A.90.060)
	Electronic Data Tampering 1 (RCW 9A.90.080)
	Electronic Data Theft (RCW 9A.90.100)
	Engaging in Fish Dealing Activity Unlicensed 1 (RCW 77.15.620(3))
	Escape from Community Custody (RCW 72.09.310)
	Failure to Register as a Sex Offender (second or subsequent offense) (RCW 9A.44.130 prior to June 10, 2010, and RCW 9A.44.132)
	Health Care False Claims (RCW 48.80.030)
	Identity Theft 2 (RCW 9.35.020(3))
	Improperly Obtaining Financial Information (RCW 9.35.010)
	Malicious Mischief 1 (RCW 9A.48.070)
	Organized Retail Theft 2 (RCW 9A.56.350(3))
	Possession of Stolen Property 1 (RCW 9A.56.150)
	Possession of a Stolen Vehicle (RCW 9A.56.068)
	Retail Theft with Special Circumstances 2 (RCW 9A.56.360(3))

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

Scrap Processing, Recycling, or Supplying Without a License (second or subsequent offense) (RCW 19.290.100)

Theft 1 (RCW 9A.56.030)

Theft of a Motor Vehicle (RCW 9A.56.065)

Theft of Rental, Leased, Lease-purchased, or Loaned Property (valued at $5,000 or more) (RCW 9A.56.096(5)(a))

Theft with the Intent to Resell 2 (RCW 9A.56.340(3))

Trafficking in Insurance Claims (RCW 48.30A.015)

Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(a))

Unlawful Participation of Non-Indians in Indian Fishery (RCW 77.15.570(2))

Unlawful Practice of Law (RCW 2.48.180)

Unlawful Purchase or Use of a License (RCW 77.15.650(3)(b))

Unlawful Trafficking in Fish, Shellfish, or Wildlife 2 (RCW 77.15.260(3)(a))

Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))

Voyeurism 1 (RCW 9A.44.115)

I Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)

False Verification for Welfare (RCW 74.08.055)

Forgery (RCW 9A.60.020)

Fraudulent Creation or Revocation of a Mental Health Advance Directive (RCW 9A.60.060)

Malicious Mischief 2 (RCW 9A.48.080)

Mineral Trespass (RCW 78.44.330)

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

Possession of Stolen Property 2 (RCW 9A.56.160)

Reckless Burning 1 (RCW 9A.48.040)

Spotlighting Big Game 1 (RCW 77.15.450(3)(b))

Suspension of Department Privileges 1 (RCW 77.15.670(3)(b))

Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075)

Theft 2 (RCW 9A.56.040)

Theft from a Vulnerable Adult 2 (RCW 9A.56.400(2))

Theft of Rental, Leased, Lease-purchased, or Loaned Property (valued at $750 or more but less than $5,000) (RCW 9A.56.096(5)(b))

Transaction of insurance business beyond the scope of licensure (RCW 48.17.063)

Unlawful Fish and Shellfish Catch Accounting (RCW 77.15.630(3)(b))

Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)

Unlawful Possession of Fictitious Identification (RCW 9A.56.320)

Unlawful Possession of Instruments of Financial Fraud (RCW 9A.56.320)

Unlawful Possession of Payment Instruments (RCW 9A.56.320)

Unlawful Possession of a Personal Identification Device (RCW 9A.56.320)

Unlawful Production of Payment Instruments (RCW 9A.56.320)

Unlawful Releasing, Planting, Possessing, or Placing Deleterious Exotic Wildlife (RCW 77.15.250(2)(b))

Unlawful Trafficking in Food Stamps (RCW 9.91.142)

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

Unlawful Use of Food Stamps (RCW 9.91.144)

Unlawful Use of Net to Take Fish 1 (RCW 77.15.580(3)(b))

Unlawful Use of Prohibited Aquatic Animal Species (RCW 77.15.253(3))

Vehicle Prowl 1 (RCW 9A.52.095)

Violating Commercial Fishing Area or Time 1 (RCW 77.15.550(3)(b))

NEW SECTION. **Sec. 4.** This act may be known and cited as Kimberly Bender's law.

Passed by the Senate February 27, 2023.
Passed by the House March 22, 2023.
Approved by the Governor March 30, 2023.
Filed in Office of Secretary of State March 30, 2023.

CHAPTER 8

[Senate Bill 5036]

AUDIO-ONLY TELEMEDICINE—REIMBURSEMENT CONDITIONS

AN ACT Relating to extending the time frame in which real-time telemedicine using both audio and video technology may be used to establish a relationship for the purpose of providing audio-only telemedicine for certain health care services; and amending RCW 41.05.700, 48.43.735, and 74.09.325.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 41.05.700 and 2022 c 213 s 1 are each amended to read as follows:

(1)(a) A health plan offered to employees, school employees, and their covered dependents under this chapter issued or renewed on or after January 1, 2017, shall reimburse a provider for a health care service provided to a covered person through telemedicine or store and forward technology if:

(i) The plan provides coverage of the health care service when provided in person by the provider;

(ii) The health care service is medically necessary;

(iii) The health care service is a service recognized as an essential health benefit under section 1302(b) of the federal patient protection and affordable care act in effect on January 1, 2015;

(iv) The health care service is determined to be safely and effectively provided through telemedicine or store and forward technology according to generally accepted health care practices and standards, and the technology used to provide the health care service meets the standards required by state and federal laws governing the privacy and security of protected health information; and

(v) Beginning January 1, 2023, for audio-only telemedicine, the covered person has an established relationship with the provider.

(b)(i) Except as provided in (b)(ii) of this subsection, a health plan offered to employees, school employees, and their covered dependents under this chapter issued or renewed on or after January 1, 2021, shall reimburse a provider for a health care service provided to a covered person through telemedicine the same amount of compensation the carrier would pay the provider if the health care service was provided in person by the provider.

(ii) Hospitals, hospital systems, telemedicine companies, and provider groups consisting of eleven or more providers may elect to negotiate an amount of compensation for telemedicine services that differs from the amount of compensation for in-person services.

(iii) For purposes of this subsection (1)(b), the number of providers in a provider group refers to all providers within the group, regardless of a provider's location.

(2) For purposes of this section, reimbursement of store and forward technology is available only for those covered services specified in the negotiated agreement between the health plan and health care provider.

(3) An originating site for a telemedicine health care service subject to subsection (1) of this section includes a:

(a) Hospital;

(b) Rural health clinic;

(c) Federally qualified health center;

(d) Physician's or other health care provider's office;

(e) Licensed or certified behavioral health agency;

(f) Skilled nursing facility;

(g) Home or any location determined by the individual receiving the service; or

(h) Renal dialysis center, except an independent renal dialysis center.

(4) Except for subsection (3)(g) of this section, any originating site under subsection (3) of this section may charge a facility fee for infrastructure and preparation of the patient. Reimbursement for a facility fee must be subject to a negotiated agreement between the originating site and the health plan. A distant site, a hospital that is an originating site for audio-only telemedicine, or any other site not identified in subsection (3) of this section may not charge a facility fee.

(5) The plan may not distinguish between originating sites that are rural and urban in providing the coverage required in subsection (1) of this section.

(6) The plan may subject coverage of a telemedicine or store and forward technology health service under subsection (1) of this section to all terms and conditions of the plan including, but not limited to, utilization review, prior authorization, deductible, copayment, or coinsurance requirements that are applicable to coverage of a comparable health care service provided in person.

(7) This section does not require the plan to reimburse:

(a) An originating site for professional fees;

(b) A provider for a health care service that is not a covered benefit under the plan; or

(c) An originating site or health care provider when the site or provider is not a contracted provider under the plan.

(8)(a) If a provider intends to bill a patient or the patient's health plan for an audio-only telemedicine service, the provider must obtain patient consent for the billing in advance of the service being delivered.

(b) If the health care authority has cause to believe that a provider has engaged in a pattern of unresolved violations of this subsection (8), the health care authority may submit information to the appropriate disciplining authority, as defined in RCW 18.130.020, for action. Prior to submitting information to the appropriate disciplining authority, the health care authority may provide the provider with an opportunity to cure the alleged violations or explain why the actions in question did not violate this subsection (8).

(c) If the provider has engaged in a pattern of unresolved violations of this subsection (8), the appropriate disciplining authority may levy a fine or cost recovery upon the provider in an amount not to exceed the applicable statutory amount per violation and take other action as permitted under the authority of the disciplining authority. Upon completion of its review of any potential violation submitted by the health care authority or initiated directly by an enrollee, the disciplining authority shall notify the health care authority of the results of the review, including whether the violation was substantiated and any enforcement action taken as a result of a finding of a substantiated violation.

(9) For purposes of this section:

(a)(i) "Audio-only telemedicine" means the delivery of health care services through the use of audio-only technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment.

(ii) For purposes of this section only, "audio-only telemedicine" does not include:

(A) The use of facsimile or email; or

(B) The delivery of health care services that are customarily delivered by audio-only technology and customarily not billed as separate services by the provider, such as the sharing of laboratory results;

(b) "Disciplining authority" has the same meaning as in RCW 18.130.020;

(c) "Distant site" means the site at which a physician or other licensed provider, delivering a professional service, is physically located at the time the service is provided through telemedicine;

(d) "Established relationship" means the provider providing audio-only telemedicine has access to sufficient health records to ensure safe, effective, and appropriate care services and:

(i) For health care services included in the essential health benefits category of mental health and substance use disorder services, including behavioral health treatment:

(A) The covered person has had, within the past three years, at least one in-person appointment, or at least one real-time interactive appointment using both audio and video technology, with the provider providing audio-only telemedicine or with a provider employed at the same medical group, at the same clinic, or by the same integrated delivery system operated by a carrier licensed under chapter 48.44 or 48.46 RCW as the provider providing audio-only telemedicine; or

(B) The covered person was referred to the provider providing audio-only telemedicine by another provider who has had, within the past three years, at

least one in-person appointment, or at least one real-time interactive appointment using both audio and video technology, with the covered person and has provided relevant medical information to the provider providing audio-only telemedicine;

(ii) For any other health care service:

(A) The covered person has had, within the past two years, at least one in-person appointment, or, until ((~~January~~)) July 1, 2024, at least one real-time interactive appointment using both audio and video technology, with the provider providing audio-only telemedicine or with a provider employed at the same medical group, at the same clinic, or by the same integrated delivery system operated by a carrier licensed under chapter 48.44 or 48.46 RCW as the provider providing audio-only telemedicine; or

(B) The covered person was referred to the provider providing audio-only telemedicine by another provider who has had, within the past two years, at least one in-person appointment, or, until ((~~January~~)) July 1, 2024, at least one real-time interactive appointment using both audio and video technology, with the covered person and has provided relevant medical information to the provider providing audio-only telemedicine;

(e) "Health care service" has the same meaning as in RCW 48.43.005;

(f) "Hospital" means a facility licensed under chapter 70.41, 71.12, or 72.23 RCW;

(g) "Originating site" means the physical location of a patient receiving health care services through telemedicine;

(h) "Provider" has the same meaning as in RCW 48.43.005;

(i) "Store and forward technology" means use of an asynchronous transmission of a covered person's medical information from an originating site to the health care provider at a distant site which results in medical diagnosis and management of the covered person, and does not include the use of audio-only telephone, facsimile, or email; and

(j) "Telemedicine" means the delivery of health care services through the use of interactive audio and video technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment. For purposes of this section only, "telemedicine" includes audio-only telemedicine, but does not include facsimile or email.

Sec. 2. RCW 48.43.735 and 2022 c 213 s 2 are each amended to read as follows:

(1)(a) For health plans issued or renewed on or after January 1, 2017, a health carrier shall reimburse a provider for a health care service provided to a covered person through telemedicine or store and forward technology if:

(i) The plan provides coverage of the health care service when provided in person by the provider;

(ii) The health care service is medically necessary;

(iii) The health care service is a service recognized as an essential health benefit under section 1302(b) of the federal patient protection and affordable care act in effect on January 1, 2015;

(iv) The health care service is determined to be safely and effectively provided through telemedicine or store and forward technology according to generally accepted health care practices and standards, and the technology used

to provide the health care service meets the standards required by state and federal laws governing the privacy and security of protected health information; and

(v) Beginning January 1, 2023, for audio-only telemedicine, the covered person has an established relationship with the provider.

(b)(i) Except as provided in (b)(ii) of this subsection, for health plans issued or renewed on or after January 1, 2021, a health carrier shall reimburse a provider for a health care service provided to a covered person through telemedicine the same amount of compensation the carrier would pay the provider if the health care service was provided in person by the provider.

(ii) Hospitals, hospital systems, telemedicine companies, and provider groups consisting of eleven or more providers may elect to negotiate an amount of compensation for telemedicine services that differs from the amount of compensation for in-person services.

(iii) For purposes of this subsection (1)(b), the number of providers in a provider group refers to all providers within the group, regardless of a provider's location.

(2) For purposes of this section, reimbursement of store and forward technology is available only for those covered services specified in the negotiated agreement between the health carrier and the health care provider.

(3) An originating site for a telemedicine health care service subject to subsection (1) of this section includes a:

(a) Hospital;

(b) Rural health clinic;

(c) Federally qualified health center;

(d) Physician's or other health care provider's office;

(e) Licensed or certified behavioral health agency;

(f) Skilled nursing facility;

(g) Home or any location determined by the individual receiving the service; or

(h) Renal dialysis center, except an independent renal dialysis center.

(4) Except for subsection (3)(g) of this section, any originating site under subsection (3) of this section may charge a facility fee for infrastructure and preparation of the patient. Reimbursement for a facility fee must be subject to a negotiated agreement between the originating site and the health carrier. A distant site, a hospital that is an originating site for audio-only telemedicine, or any other site not identified in subsection (3) of this section may not charge a facility fee.

(5) A health carrier may not distinguish between originating sites that are rural and urban in providing the coverage required in subsection (1) of this section.

(6) A health carrier may subject coverage of a telemedicine or store and forward technology health service under subsection (1) of this section to all terms and conditions of the plan in which the covered person is enrolled including, but not limited to, utilization review, prior authorization, deductible, copayment, or coinsurance requirements that are applicable to coverage of a comparable health care service provided in person.

(7) This section does not require a health carrier to reimburse:

(a) An originating site for professional fees;

(b) A provider for a health care service that is not a covered benefit under the plan; or

(c) An originating site or health care provider when the site or provider is not a contracted provider under the plan.

(8)(a) If a provider intends to bill a patient or the patient's health plan for an audio-only telemedicine service, the provider must obtain patient consent for the billing in advance of the service being delivered.

(b) If the commissioner has cause to believe that a provider has engaged in a pattern of unresolved violations of this subsection (8), the commissioner may submit information to the appropriate disciplining authority, as defined in RCW 18.130.020, for action. Prior to submitting information to the appropriate disciplining authority, the commissioner may provide the provider with an opportunity to cure the alleged violations or explain why the actions in question did not violate this subsection (8).

(c) If the provider has engaged in a pattern of unresolved violations of this subsection (8), the appropriate disciplining authority may levy a fine or cost recovery upon the provider in an amount not to exceed the applicable statutory amount per violation and take other action as permitted under the authority of the disciplining authority. Upon completion of its review of any potential violation submitted by the commissioner or initiated directly by an enrollee, the disciplining authority shall notify the commissioner of the results of the review, including whether the violation was substantiated and any enforcement action taken as a result of a finding of a substantiated violation.

(9) For purposes of this section:

(a)(i) "Audio-only telemedicine" means the delivery of health care services through the use of audio-only technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment.

(ii) For purposes of this section only, "audio-only telemedicine" does not include:

(A) The use of facsimile or email; or

(B) The delivery of health care services that are customarily delivered by audio-only technology and customarily not billed as separate services by the provider, such as the sharing of laboratory results;

(b) "Disciplining authority" has the same meaning as in RCW 18.130.020;

(c) "Distant site" means the site at which a physician or other licensed provider, delivering a professional service, is physically located at the time the service is provided through telemedicine;

(d) "Established relationship" means the provider providing audio-only telemedicine has access to sufficient health records to ensure safe, effective, and appropriate care services and:

(i) For health care services included in the essential health benefits category of mental health and substance use disorder services, including behavioral health treatment:

(A) The covered person has had, within the past three years, at least one in-person appointment, or at least one real-time interactive appointment using both audio and video technology, with the provider providing audio-only telemedicine or with a provider employed at the same medical group, at the same clinic, or by the same integrated delivery system operated by a carrier licensed

under chapter 48.44 or 48.46 RCW as the provider providing audio-only telemedicine; or

(B) The covered person was referred to the provider providing audio-only telemedicine by another provider who has had, within the past three years, at least one in-person appointment, or at least one real-time interactive appointment using both audio and video technology, with the covered person and has provided relevant medical information to the provider providing audio-only telemedicine;

(ii) For any other health care service:

(A) The covered person has had, within the past two years, at least one in-person appointment, or, until ((~~January~~)) July 1, 2024, at least one real-time interactive appointment using both audio and video technology, with the provider providing audio-only telemedicine or with a provider employed at the same medical group, at the same clinic, or by the same integrated delivery system operated by a carrier licensed under chapter 48.44 or 48.46 RCW as the provider providing audio-only telemedicine; or

(B) The covered person was referred to the provider providing audio-only telemedicine by another provider who has had, within the past two years, at least one in-person appointment, or, until ((~~January~~)) July 1, 2024, at least one real-time interactive appointment using both audio and video technology, with the covered person and has provided relevant medical information to the provider providing audio-only telemedicine;

(e) "Health care service" has the same meaning as in RCW 48.43.005;

(f) "Hospital" means a facility licensed under chapter 70.41, 71.12, or 72.23 RCW;

(g) "Originating site" means the physical location of a patient receiving health care services through telemedicine;

(h) "Provider" has the same meaning as in RCW 48.43.005;

(i) "Store and forward technology" means use of an asynchronous transmission of a covered person's medical information from an originating site to the health care provider at a distant site which results in medical diagnosis and management of the covered person, and does not include the use of audio-only telephone, facsimile, or email; and

(j) "Telemedicine" means the delivery of health care services through the use of interactive audio and video technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment. For purposes of this section only, "telemedicine" includes audio-only telemedicine, but does not include facsimile or email.

(10) The commissioner may adopt any rules necessary to implement this section.

Sec. 3. RCW 74.09.325 and 2022 c 213 s 4 are each amended to read as follows:

(1)(a) Upon initiation or renewal of a contract with the Washington state health care authority to administer a medicaid managed care plan, a managed health care system shall reimburse a provider for a health care service provided to a covered person through telemedicine or store and forward technology if:

(i) The medicaid managed care plan in which the covered person is enrolled provides coverage of the health care service when provided in person by the provider;

(ii) The health care service is medically necessary;

(iii) The health care service is a service recognized as an essential health benefit under section 1302(b) of the federal patient protection and affordable care act in effect on January 1, 2015;

(iv) The health care service is determined to be safely and effectively provided through telemedicine or store and forward technology according to generally accepted health care practices and standards, and the technology used to provide the health care service meets the standards required by state and federal laws governing the privacy and security of protected health information; and

(v) Beginning January 1, 2023, for audio-only telemedicine, the covered person has an established relationship with the provider.

(b)(i) Except as provided in (b)(ii) of this subsection, upon initiation or renewal of a contract with the Washington state health care authority to administer a medicaid managed care plan, a managed health care system shall reimburse a provider for a health care service provided to a covered person through telemedicine the same amount of compensation the managed health care system would pay the provider if the health care service was provided in person by the provider.

(ii) Hospitals, hospital systems, telemedicine companies, and provider groups consisting of eleven or more providers may elect to negotiate an amount of compensation for telemedicine services that differs from the amount of compensation for in-person services.

(iii) For purposes of this subsection (1)(b), the number of providers in a provider group refers to all providers within the group, regardless of a provider's location.

(iv) A rural health clinic shall be reimbursed for audio-only telemedicine at the rural health clinic encounter rate.

(2) For purposes of this section, reimbursement of store and forward technology is available only for those services specified in the negotiated agreement between the managed health care system and health care provider.

(3) An originating site for a telemedicine health care service subject to subsection (1) of this section includes a:

(a) Hospital;

(b) Rural health clinic;

(c) Federally qualified health center;

(d) Physician's or other health care provider's office;

(e) Licensed or certified behavioral health agency;

(f) Skilled nursing facility;

(g) Home or any location determined by the individual receiving the service; or

(h) Renal dialysis center, except an independent renal dialysis center.

(4) Except for subsection (3)(g) of this section, any originating site under subsection (3) of this section may charge a facility fee for infrastructure and preparation of the patient. Reimbursement for a facility fee must be subject to a negotiated agreement between the originating site and the managed health care

system. A distant site, a hospital that is an originating site for audio-only telemedicine, or any other site not identified in subsection (3) of this section may not charge a facility fee.

(5) A managed health care system may not distinguish between originating sites that are rural and urban in providing the coverage required in subsection (1) of this section.

(6) A managed health care system may subject coverage of a telemedicine or store and forward technology health service under subsection (1) of this section to all terms and conditions of the plan in which the covered person is enrolled including, but not limited to, utilization review, prior authorization, deductible, copayment, or coinsurance requirements that are applicable to coverage of a comparable health care service provided in person.

(7) This section does not require a managed health care system to reimburse:

(a) An originating site for professional fees;

(b) A provider for a health care service that is not a covered benefit under the plan; or

(c) An originating site or health care provider when the site or provider is not a contracted provider under the plan.

(8)(a) If a provider intends to bill a patient or a managed health care system for an audio-only telemedicine service, the provider must obtain patient consent for the billing in advance of the service being delivered and comply with all rules created by the authority related to restrictions on billing medicaid recipients. The authority may submit information on any potential violations of this subsection to the appropriate disciplining authority, as defined in RCW 18.130.020, or take contractual actions against the provider's agreement for participation in the medicaid program, or both.

(b) If the health care authority has cause to believe that a provider has engaged in a pattern of unresolved violations of this subsection (8), the health care authority may submit information to the appropriate disciplining authority for action. Prior to submitting information to the appropriate disciplining authority, the health care authority may provide the provider with an opportunity to cure the alleged violations or explain why the actions in question did not violate this subsection (8).

(c) If the provider has engaged in a pattern of unresolved violations of this subsection (8), the appropriate disciplining authority may levy a fine or cost recovery upon the provider in an amount not to exceed the applicable statutory amount per violation and take other action as permitted under the authority of the disciplining authority. Upon completion of its review of any potential violation submitted by the health care authority or initiated directly by an enrollee, the disciplining authority shall notify the health care authority of the results of the review, including whether the violation was substantiated and any enforcement action taken as a result of a finding of a substantiated violation.

(9) For purposes of this section:

(a)(i) "Audio-only telemedicine" means the delivery of health care services through the use of audio-only technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment.

(ii) For purposes of this section only, "audio-only telemedicine" does not include:

(A) The use of facsimile or email; or

(B) The delivery of health care services that are customarily delivered by audio-only technology and customarily not billed as separate services by the provider, such as the sharing of laboratory results;

(b) "Disciplining authority" has the same meaning as in RCW 18.130.020;

(c) "Distant site" means the site at which a physician or other licensed provider, delivering a professional service, is physically located at the time the service is provided through telemedicine;

(d) "Established relationship" means the provider providing audio-only telemedicine has access to sufficient health records to ensure safe, effective, and appropriate care services and:

(i) For health care services included in the essential health benefits category of mental health and substance use disorder services, including behavioral health treatment:

(A) The covered person has had, within the past three years, at least one in-person appointment, or at least one real-time interactive appointment using both audio and video technology, with the provider providing audio-only telemedicine or with a provider employed at the same medical group, at the same clinic, or by the same integrated delivery system operated by a carrier licensed under chapter 48.44 or 48.46 RCW as the provider providing audio-only telemedicine; or

(B) The covered person was referred to the provider providing audio-only telemedicine by another provider who has had, within the past three years, at least one in-person appointment, or at least one real-time interactive appointment using both audio and video technology, with the covered person and has provided relevant medical information to the provider providing audio-only telemedicine;

(ii) For any other health care service:

(A) The covered person has had, within the past two years, at least one in-person appointment, or, until ((~~January~~)) July 1, 2024, at least one real-time interactive appointment using both audio and video technology, with the provider providing audio-only telemedicine or with a provider employed at the same medical group, at the same clinic, or by the same integrated delivery system operated by a carrier licensed under chapter 48.44 or 48.46 RCW as the provider providing audio-only telemedicine; or

(B) The covered person was referred to the provider providing audio-only telemedicine by another provider who has had, within the past two years, at least one in-person appointment, or, until ((~~January~~)) July 1, 2024, at least one real-time interactive appointment using both audio and video technology, with the covered person and has provided relevant medical information to the provider providing audio-only telemedicine;

(e) "Health care service" has the same meaning as in RCW 48.43.005;

(f) "Hospital" means a facility licensed under chapter 70.41, 71.12, or 72.23 RCW;

(g) "Managed health care system" means any health care organization, including health care providers, insurers, health care service contractors, health maintenance organizations, health insuring organizations, or any combination

thereof, that provides directly or by contract health care services covered under this chapter and rendered by licensed providers, on a prepaid capitated basis and that meets the requirements of section 1903(m)(1)(A) of Title XIX of the federal social security act or federal demonstration waivers granted under section 1115(a) of Title XI of the federal social security act;

(h) "Originating site" means the physical location of a patient receiving health care services through telemedicine;

(i) "Provider" has the same meaning as in RCW 48.43.005;

(j) "Store and forward technology" means use of an asynchronous transmission of a covered person's medical information from an originating site to the health care provider at a distant site which results in medical diagnosis and management of the covered person, and does not include the use of audio-only telephone, facsimile, or email; and

(k) "Telemedicine" means the delivery of health care services through the use of interactive audio and video technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment. For purposes of this section only, "telemedicine" includes audio-only telemedicine, but does not include facsimile or email.

Passed by the Senate February 1, 2023.
Passed by the House March 20, 2023.
Approved by the Governor March 30, 2023.
Filed in Office of Secretary of State March 30, 2023.

CHAPTER 9

[Senate Bill 5079]

TUITION OPERATING FEES—MAXIMUM INCREASE CALCULATION DATE

AN ACT Relating to the date by which tuition operating fees are established; and amending RCW 28B.15.067.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 28B.15.067 and 2021 c 200 s 9 are each amended to read as follows:

(1) Tuition fees shall be established under the provisions of this chapter.

(2) ((~~Tuition~~)) The maximum increase in tuition operating fees for resident undergraduates at institutions of higher education as defined in RCW 28B.10.016, excluding applied baccalaureate degrees as defined in RCW 28B.50.030, shall be calculated by the office of financial management and transmitted to the institutions of higher education by October 1st of each year for the following academic year. Tuition operating fees for resident undergraduates at institutions of higher education as defined in RCW 28B.10.016, excluding applied baccalaureate degrees as defined in RCW 28B.50.030, may increase by no more than the average annual percentage growth rate in the median hourly wage for Washington ((~~for the previous fourteen years~~)) as the wage is determined by the federal bureau of labor statistics and calculated based on the previous 14 years prior to the transmittal date by the office of financial management.

(3) The governing boards of the state universities, regional universities, and The Evergreen State College; and the state board for community and technical colleges may reduce or increase full-time tuition fees for all students other than resident undergraduates, including nonresident students, summer school students, and students in other self-supporting degree programs. Percentage increases in full-time tuition may exceed the fiscal growth factor. Except during the 2013-2015 fiscal biennium, the state board for community and technical colleges may pilot or institute differential tuition models. The board may define scale, scope, and rationale for the models.

(4) The tuition fees established under this chapter shall not apply to high school students enrolling in participating institutions of higher education under RCW 28A.600.300 through 28A.600.400.

(5)(a) The tuition fees established under this chapter shall not apply to eligible students enrolling in a dropout reengagement program through an interlocal agreement between a school district and a community or technical college under RCW 28A.175.100 through 28A.175.110.

(b) The tuition fees established under this chapter shall not apply to students incarcerated with the department of corrections who are participating in credit-eligible postsecondary education courses and degree programs when the program expenses are funded by nontuition resources such as, but not limited to, grants, contracts, and donations.

(6) As a result of any changes in tuition under section 3, chapter 36, Laws of 2015 3rd sp. sess., the governing boards of the state universities, the regional universities, and The Evergreen State College shall not reduce resident undergraduate enrollment below the 2014-15 academic year levels.

Passed by the Senate February 15, 2023.
Passed by the House March 22, 2023.
Approved by the Governor March 30, 2023.
Filed in Office of Secretary of State March 30, 2023.

CHAPTER 10

[Substitute Senate Bill 5121]

JOINT SELECT COMMITTEE ON HEALTH CARE AND BEHAVIORAL HEALTH OVERSIGHT—EXTENSION AND RENAMING

AN ACT Relating to the joint select committee on health care and behavioral health oversight; reenacting and amending RCW 44.82.010; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 44.82.010 and 2014 c 223 s 3 are each reenacted and amended to read as follows:

(1) The joint select committee on health care <u>and behavioral health</u> oversight is established in statute, continuing the committee created in Engrossed Substitute Senate Concurrent Resolution No. 8401 passed in 2013.

(2) The membership of the joint select committee on health care <u>and behavioral health</u> oversight must consist of the following: (a) The chairs of the health care committees of the senate and the house of representatives, who must serve as cochairs; (b) four additional members of the senate, two each appointed by the leadership of the two largest political parties in the senate; and (c) four

additional members of the house of representatives, two each appointed by the leadership of the two largest political parties in the house of representatives. The governor must be invited to appoint, as a liaison to the joint select committee, a person who must be a nonvoting member.

(3) The joint select committee on health care and behavioral health oversight must provide oversight between the health care authority, health benefit exchange, the office of the insurance commissioner, the department of health, and the department of social and health services. The goal must be to ensure that these entities are not duplicating their efforts and are working toward a goal of increased quality of services which will lead to reduced costs to the health care consumer.

(4) The joint select committee on health care and behavioral health oversight must, as necessary, propose legislation to the health care committees and budget recommendations to the ways and means committees of the legislature that aids in their coordination of activities and that leads to better quality and cost savings.

(5) ((~~The joint select committee on health care oversight~~)) This section expires ((~~on~~)) December 31, ((~~2022~~)) 2026.

Passed by the Senate February 1, 2023.
Passed by the House March 20, 2023.
Approved by the Governor March 30, 2023.
Filed in Office of Secretary of State March 30, 2023.

CHAPTER 11

[Senate Bill 5122]

AMBULANCE TRANSPORT FUND—EXTENSION

AN ACT Relating to extending the expiration date of the ambulance transport fund; amending RCW 74.70.901; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 74.70.901 and 2020 c 354 s 13 are each amended to read as follows:

This act expires July 1, ((~~2024~~)) 2028.

Passed by the Senate February 15, 2023.
Passed by the House March 20, 2023.
Approved by the Governor March 30, 2023.
Filed in Office of Secretary of State March 30, 2023.

CHAPTER 12

[Engrossed Substitute Senate Bill 5142]

HIV MEDICATION REBATE REVENUE ACCOUNT

AN ACT Relating to creating an account for the pharmaceutical rebate revenue generated by the purchase of medications for people living with HIV who are enrolled in the early intervention program; reenacting and amending RCW 43.79A.040; adding a new section to chapter 43.70 RCW; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 43.70 RCW to read as follows:

The medication for people living with HIV rebate revenue account is created in the custody of the state treasury. The early intervention program shall deposit any receipts from pharmaceutical rebates generated by the purchase of medications with federal grant funds and revenue generated from federal grant funds for any person enrolled in the early intervention program into the account. The expenditures may only be used for services defined in the grant award from the Ryan White HIV/AIDS program. Only the secretary or the secretary's designee may authorize expenditures from the account. An appropriation is not required for expenditures. The account is subject to allotment procedures under chapter 43.88 RCW.

Sec. 2. RCW 43.79A.040 and 2022 c 244 s 3, 2022 c 206 s 8, 2022 c 183 s 16, and 2022 c 162 s 6 are each reenacted and amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury, and may be commingled with moneys in the state treasury for cash management and cash balance purposes.

(2) All income received from investment of the treasurer's trust fund must be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments must occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer must distribute the earnings credited to the investment income account to the state general fund except under (b), (c), and (d) of this subsection.

(b) The following accounts and funds must receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The 24/7 sobriety account, the Washington promise scholarship account, the Gina Grant Bull memorial legislative page scholarship account, the Rosa Franklin legislative internship program scholarship account, the Washington advanced college tuition payment program account, the Washington college savings program account, the accessible communities account, the Washington achieving a better life experience program account, the Washington career and college pathways innovation challenge program account, the community and technical college innovation account, the agricultural local fund, the American Indian scholarship endowment fund, the behavioral health loan repayment program account, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the county enhanced 911 excise tax account, the county road administration board emergency loan account, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the energy

facility site evaluation council account, the fair fund, the family and medical leave insurance account, the fish and wildlife federal lands revolving account, the natural resources federal lands revolving account, the food animal veterinarian conditional scholarship account, the forest health revolving account, the fruit and vegetable inspection account, the educator conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the Washington global health technologies and product development account, the grain inspection revolving fund, the Washington history day account, the industrial insurance rainy day fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the low-income home rehabilitation revolving loan program account, the medication for people living with HIV rebate revenue account, the multiagency permitting team account, the northeast Washington wolf-livestock management account, the produce railcar pool account, the public use general aviation airport loan revolving account, the regional transportation investment district account, the rural rehabilitation account, the Washington sexual assault kit account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account, the life sciences discovery fund, the Washington state library-archives building account, the reduced cigarette ignition propensity account, the center for deaf and hard of hearing youth account, the school for the blind account, the Millersylvania park trust fund, the public employees' and retirees' insurance reserve fund, the school employees' benefits board insurance reserve fund, the public employees' and retirees' insurance account, the school employees' insurance account, the long-term services and supports trust account, the radiation perpetual maintenance fund, the Indian health improvement reinvestment account, the department of licensing tuition recovery trust fund, the student achievement council tuition recovery trust fund, the tuition recovery trust fund, the Washington student loan account, the industrial insurance premium refund account, the mobile home park relocation fund, the natural resources deposit fund, the Washington state health insurance pool account, the federal forest revolving account, and the library operations account.

(c) The following accounts and funds must receive 80 percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advance right-of-way revolving fund, the advanced environmental mitigation revolving account, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(d) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the custody of the state treasurer that deposits funds into a fund or account in the custody of the state treasurer pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of 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 July 1, 2023.

Passed by the Senate February 22, 2023.
Passed by the House March 22, 2023.
Approved by the Governor March 30, 2023.
Filed in Office of Secretary of State March 30, 2023.

CHAPTER 13

[Substitute Senate Bill 5275]
SCHOOL EMPLOYEES' BENEFITS BOARD—BENEFITS ELIGIBILITY

AN ACT Relating to expanding access to benefits provided by the school employees' benefits board; amending RCW 41.05.011, 41.05.050, 41.05.080, 41.05.195, and 41.05.740; reenacting and amending RCW 41.05.021; adding a new section to chapter 41.05 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that employees and employers are benefited by consistency and mobility in public employee health care.

Therefore it is the intent of the legislature to expand access to benefits provided by the school employees' benefits board to employees of tribal schools and employee organizations representing school employees.

Sec. 2. RCW 41.05.011 and 2019 c 411 s 4 are each amended to read as follows:

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

(1) "Authority" means the Washington state health care authority.

(2) "Board" means the public employees' benefits board established under RCW 41.05.055 and the school employees' benefits board established under RCW 41.05.740.

(3) "Dependent care assistance program" means a benefit plan whereby employees and school employees may pay for certain employment related dependent care with pretax dollars as provided in the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec. 129 or other sections of the internal revenue code.

(4) "Director" means the director of the authority.

(5) "Emergency service personnel killed in the line of duty" means law enforcement officers and firefighters as defined in RCW 41.26.030, members of the Washington state patrol retirement fund as defined in RCW 43.43.120, and reserve officers and firefighters as defined in RCW 41.24.010 who die as a result of injuries sustained in the course of employment as determined consistent with Title 51 RCW by the department of labor and industries.

(6)(a) "Employee" for the public employees' benefits board program includes all employees of the state, whether or not covered by civil service; elected and appointed officials of the executive branch of government, including

full-time members of boards, commissions, or committees; justices of the supreme court and judges of the court of appeals and the superior courts; and members of the state legislature. Pursuant to contractual agreement with the authority, "employee" may also include: (i) Employees of a county, municipality, or other political subdivision of the state and members of the legislative authority of any county, city, or town who are elected to office after February 20, 1970, if the legislative authority of the county, municipality, or other political subdivision of the state submits application materials to the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.04.205 and 41.05.021(1)(g); (ii) employees of employee organizations representing state civil service employees, at the option of each such employee organization; (iii) through December 31, 2019, employees of a school district if the authority agrees to provide any of the school districts' insurance programs by contract with the authority as provided in RCW 28A.400.350; (iv) employees of a tribal government, if the governing body of the tribal government seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.05.021(1) (f) and (g); (v) employees of the Washington health benefit exchange if the governing board of the exchange established in RCW 43.71.020 seeks and receives approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.05.021(1) (g) and (n); and (vi) through December 31, 2019, employees of a charter school established under chapter 28A.710 RCW. "Employee" does not include: Adult family home providers; unpaid volunteers; patients of state hospitals; inmates; employees of the Washington state convention and trade center as provided in RCW 41.05.110; students of institutions of higher education as determined by their institution; and any others not expressly defined as employees under this chapter or by the authority under this chapter.

(b) Effective January 1, 2020, "school employee" for the school employees' benefits board program includes:

(i) All employees of school districts and charter schools established under chapter 28A.710 RCW;

(ii) Represented employees of educational service districts; ((~~and~~))

(iii) Effective January 1, 2024, all employees of educational service districts; and

(iv) Effective January 1, 2024, pursuant to contractual agreement with the authority, "school employee" may also include: (A) Employees of employee organizations representing school employees, at the option of each such employee organization; and (B) employees of a tribal school as defined in RCW 28A.715.010, if the governing body of the tribal school seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.05.021(1) (f) and (g).

(7) "Employee group" means employees of a similar employment type, such as administrative, represented classified, nonrepresented classified excluding such employees in educational service districts until December 31, 2023, confidential, represented certificated, or nonrepresented certificated excluding such employees in educational service districts until December 31, 2023, within a school employees' benefits board organization.

(8)(a) "Employer" for the public employees' benefits board program means the state of Washington.

(b) "Employer" for the school employees' benefits board program means school districts and educational service districts and charter schools established under chapter 28A.710 RCW.

(9)(a) "Employer group" for the public employees' benefits board program means those counties, municipalities, political subdivisions, the Washington health benefit exchange, tribal governments, employee organizations representing state civil service employees, and through December 31, 2019, school districts, charter schools, and through December 31, 2023, educational service districts obtaining employee benefits through a contractual agreement with the authority to participate in benefit plans developed by the public employees' benefits board.

(b) "Employer group" for the school employees' benefits board program means an employee organization representing school employees and a tribal school as defined in RCW 28A.715.010, obtaining employee benefits through a contractual agreement with the authority to participate in benefit plans developed by the school employees' benefits board.

(10)(a) "Employing agency" for the public employees' benefits board program means a division, department, or separate agency of state government, including an institution of higher education; a county, municipality, or other political subdivision; and a tribal government covered by this chapter.

(b) "Employing agency" for the school employees' benefits board program means school districts, educational service districts, and charter schools.

(11) "Faculty" means an academic employee of an institution of higher education whose workload is not defined by work hours but whose appointment, workload, and duties directly serve the institution's academic mission, as determined under the authority of its enabling statutes, its governing body, and any applicable collective bargaining agreement.

(12) "Flexible benefit plan" means a benefit plan that allows employees and school employees to choose the level of health care coverage provided and the amount of employee or school employee contributions from among a range of choices offered by the authority.

(13) "Insuring entity" means an insurer as defined in chapter 48.01 RCW, a health care service contractor as defined in chapter 48.44 RCW, or a health maintenance organization as defined in chapter 48.46 RCW.

(14) "Medical flexible spending arrangement" means a benefit plan whereby state and school employees may reduce their salary before taxes to pay for medical expenses not reimbursed by insurance as provided in the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

(15) "Participant" means an individual who fulfills the eligibility and enrollment requirements under the salary reduction plan.

(16) "Plan year" means the time period established by the authority.

(17) "Premium payment plan" means a benefit plan whereby public employees may pay their share of group health plan premiums with pretax dollars as provided in the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

(18) "Public employee" has the same meaning as employee and school employee.

(19) "Retired or disabled school employee" means:

(a) Persons who separated from employment with a school district or educational service district and are receiving a retirement allowance under chapter 41.32 or 41.40 RCW as of September 30, 1993;

(b) Persons who separate from employment with a school district, educational service district, or charter school on or after October 1, 1993, and immediately upon separation receive a retirement allowance under chapter 41.32, 41.35, or 41.40 RCW;

(c) Persons who separate from employment with a school district, educational service district, or charter school due to a total and permanent disability, and are eligible to receive a deferred retirement allowance under chapter 41.32, 41.35, or 41.40 RCW.

(20) "Salary" means a state or school employee's monthly salary or wages.

(21) "Salary reduction plan" means a benefit plan whereby public employees may agree to a reduction of salary on a pretax basis to participate in the dependent care assistance program, medical flexible spending arrangement, or premium payment plan offered pursuant to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

(22) "School employees' benefits board organization" means a public school district or educational service district or charter school established under chapter 28A.710 RCW that is required to participate in benefit plans provided by the school employees' benefits board.

(23) "School year" means school year as defined in RCW 28A.150.203(11).

(24) "Seasonal employee" means a state employee hired to work during a recurring, annual season with a duration of three months or more, and anticipated to return each season to perform similar work.

(25) "Separated employees" means persons who separate from employment with an employer as defined in:

(a) RCW 41.32.010(17) on or after July 1, 1996; or

(b) RCW 41.35.010 on or after September 1, 2000; or

(c) RCW 41.40.010 on or after March 1, 2002;

and who are at least age fifty-five and have at least ten years of service under the teachers' retirement system plan 3 as defined in RCW 41.32.010(33), the Washington school employees' retirement system plan 3 as defined in RCW 41.35.010, or the public employees' retirement system plan 3 as defined in RCW 41.40.010.

(26) "State purchased health care" or "health care" means medical and health care, pharmaceuticals, and medical equipment purchased with state and federal funds by the department of social and health services, the department of health, the basic health plan, the state health care authority, the department of labor and industries, the department of corrections, the department of veterans affairs, and local school districts.

(27) "Tribal government" means an Indian tribal government as defined in section 3(32) of the employee retirement income security act of 1974, as amended, or an agency or instrumentality of the tribal government, that has government offices principally located in this state.

Sec. 3. RCW 41.05.021 and 2018 c 260 s 6 and 2018 c 201 s 7002 are each reenacted and amended to read as follows:

(1) The Washington state health care authority is created within the executive branch. The authority shall have a director appointed by the governor, with the consent of the senate. The director shall serve at the pleasure of the governor. The director may employ a deputy director, and such assistant directors and special assistants as may be needed to administer the authority, who shall be exempt from chapter 41.06 RCW, and any additional staff members as are necessary to administer this chapter. The director may delegate any power or duty vested in him or her by law, including authority to make final decisions and enter final orders in hearings conducted under chapter 34.05 RCW. The primary duties of the authority shall be to: Administer insurance benefits for employees, retired or disabled state and school employees, and school employees; administer the basic health plan pursuant to chapter 70.47 RCW; administer the children's health program pursuant to chapter 74.09 RCW; study state purchased health care programs in order to maximize cost containment in these programs while ensuring access to quality health care; implement state initiatives, joint purchasing strategies, and techniques for efficient administration that have potential application to all state-purchased health services; and administer grants that further the mission and goals of the authority. The authority's duties include, but are not limited to, the following:

(a) To administer health care benefit programs for employees, retired or disabled state and school employees, and school employees as specifically authorized in RCW 41.05.065 and 41.05.740 and in accordance with the methods described in RCW 41.05.075, 41.05.140, and other provisions of this chapter;

(b) To analyze state purchased health care programs and to explore options for cost containment and delivery alternatives for those programs that are consistent with the purposes of those programs, including, but not limited to:

(i) Creation of economic incentives for the persons for whom the state purchases health care to appropriately utilize and purchase health care services, including the development of flexible benefit plans to offset increases in individual financial responsibility;

(ii) Utilization of provider arrangements that encourage cost containment, including but not limited to prepaid delivery systems, utilization review, and prospective payment methods, and that ensure access to quality care, including assuring reasonable access to local providers, especially for employees and school employees residing in rural areas;

(iii) Coordination of state agency efforts to purchase drugs effectively as provided in RCW 70.14.050;

(iv) Development of recommendations and methods for purchasing medical equipment and supporting services on a volume discount basis;

(v) Development of data systems to obtain utilization data from state purchased health care programs in order to identify cost centers, utilization patterns, provider and hospital practice patterns, and procedure costs, utilizing the information obtained pursuant to RCW 41.05.031; and

(vi) In collaboration with other state agencies that administer state purchased health care programs, private health care purchasers, health care facilities, providers, and carriers:

(A) Use evidence-based medicine principles to develop common performance measures and implement financial incentives in contracts with insuring entities, health care facilities, and providers that:

(I) Reward improvements in health outcomes for individuals with chronic diseases, increased utilization of appropriate preventive health services, and reductions in medical errors; and

(II) Increase, through appropriate incentives to insuring entities, health care facilities, and providers, the adoption and use of information technology that contributes to improved health outcomes, better coordination of care, and decreased medical errors;

(B) Through state health purchasing, reimbursement, or pilot strategies, promote and increase the adoption of health information technology systems, including electronic medical records, by hospitals as defined in RCW 70.41.020, integrated delivery systems, and providers that:

(I) Facilitate diagnosis or treatment;

(II) Reduce unnecessary duplication of medical tests;

(III) Promote efficient electronic physician order entry;

(IV) Increase access to health information for consumers and their providers; and

(V) Improve health outcomes;

(C) Coordinate a strategy for the adoption of health information technology systems using the final health information technology report and recommendations developed under chapter 261, Laws of 2005;

(c) To analyze areas of public and private health care interaction;

(d) To provide information and technical and administrative assistance to the board;

(e) To review and approve or deny applications from counties, municipalities, and other political subdivisions of the state to provide state-sponsored insurance or self-insurance programs to their employees in accordance with the provisions of RCW 41.04.205 and (g) of this subsection, setting the premium contribution for approved groups as outlined in RCW 41.05.050;

(f) To review and approve or deny the application when the governing body of a tribal government or tribal school applies to transfer their employees to an insurance or self-insurance program administered by the public employees' benefits board or by the school employees' benefits board. In the event of an employee transfer pursuant to this subsection (1)(f), members of the governing body are eligible to be included in such a transfer if the members are authorized by the tribal government or tribal school to participate in the insurance program being transferred from and subject to payment by the members of all costs of insurance for the members. The authority shall: (i) Establish the conditions for participation; (ii) have the sole right to reject the application; and (iii) set the premium contribution for approved groups as outlined in RCW 41.05.050. Approval of the application by the authority transfers the employees and dependents involved to the insurance, self-insurance, or health care program administered by the public employees' benefits board or the school employees' benefits board;

(g) To ensure the continued status of the employee insurance or self-insurance programs administered under this chapter as a governmental plan

under section 3(32) of the employee retirement income security act of 1974, as amended, the authority shall limit the participation of ((~~employees of a county, municipal, school district, educational service district, or other political subdivision, the Washington health benefit exchange, or a tribal government~~)) employer groups, including providing for the participation of those employees whose services are substantially all in the performance of essential governmental functions, but not in the performance of commercial activities. Charter schools established under chapter 28A.710 RCW are employers and are school employees' benefits board organizations unless:

(i) The authority receives guidance from the internal revenue service or the United States department of labor that participation jeopardizes the status of plans offered under this chapter as governmental plans under the federal employees' retirement income security act or the internal revenue code; or

(ii) The charter schools are not in compliance with regulations issued by the internal revenue service and the United States treasury department pertaining to section 414(d) of the federal internal revenue code;

(h) To establish billing procedures and collect funds from school employees' benefits board organizations in a way that minimizes the administrative burden on districts;

(i) Through December 31, 2019, to publish and distribute to nonparticipating school districts and educational service districts by October 1st of each year a description of health care benefit plans available through the authority and the estimated cost if school districts and educational service district employees were enrolled;

(j) To apply for, receive, and accept grants, gifts, and other payments, including property and service, from any governmental or other public or private entity or person, and make arrangements as to the use of these receipts to implement initiatives and strategies developed under this section;

(k) To issue, distribute, and administer grants that further the mission and goals of the authority;

(l) To adopt rules consistent with this chapter as described in RCW 41.05.160 including, but not limited to:

(i) Setting forth the criteria established by the public employees' benefits board under RCW 41.05.065, and by the school employees' benefits board under RCW 41.05.740, for determining whether an employee or school employee is eligible for benefits;

(ii) Establishing an appeal process in accordance with chapter 34.05 RCW by which an employee or school employee may appeal an eligibility determination;

(iii) Establishing a process to assure that the eligibility determinations of an employing agency comply with the criteria under this chapter, including the imposition of penalties as may be authorized by the board;

(m)(i) To administer the medical services programs established under chapter 74.09 RCW as the designated single state agency for purposes of Title XIX of the federal social security act;

(ii) To administer the state children's health insurance program under chapter 74.09 RCW for purposes of Title XXI of the federal social security act;

(iii) To enter into agreements with the department of social and health services for administration of medical care services programs under Titles XIX

and XXI of the social security act and programs under chapters 71.05, 71.24, and 71.34 RCW. The agreements shall establish the division of responsibilities between the authority and the department with respect to mental health, chemical dependency, and long-term care services, including services for persons with developmental disabilities. The agreements shall be revised as necessary, to comply with the final implementation plan adopted under section 116, chapter 15, Laws of 2011 1st sp. sess.;

(iv) To adopt rules to carry out the purposes of chapter 74.09 RCW;

(v) To appoint such advisory committees or councils as may be required by any federal statute or regulation as a condition to the receipt of federal funds by the authority. The director may appoint statewide committees or councils in the following subject areas: (A) Health facilities; (B) children and youth services; (C) blind services; (D) medical and health care; (E) drug abuse and alcoholism; (F) rehabilitative services; and (G) such other subject matters as are or come within the authority's responsibilities. The statewide councils shall have representation from both major political parties and shall have substantial consumer representation. Such committees or councils shall be constituted as required by federal law or as the director in his or her discretion may determine. The members of the committees or councils shall hold office for three years except in the case of a vacancy, in which event appointment shall be only for the remainder of the unexpired term for which the vacancy occurs. No member shall serve more than two consecutive terms. Members of such state advisory committees or councils may be paid their travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended;

(n) To review and approve or deny the application from the governing board of the Washington health benefit exchange to provide public employees' benefits board state-sponsored insurance or self-insurance programs to employees of the exchange. The authority shall (i) establish the conditions for participation; (ii) have the sole right to reject an application; and (iii) set the premium contribution for approved groups as outlined in RCW 41.05.050.

(2) The public employees' benefits board and the school employees' benefits board may implement strategies to promote managed competition among employee and school employee health benefit plans. Strategies may include but are not limited to:

(a) Standardizing the benefit package;

(b) Soliciting competitive bids for the benefit package;

(c) Limiting the state's contribution to a percent of the lowest priced qualified plan within a geographical area;

(d) Monitoring the impact of the approach under this subsection with regards to: Efficiencies in health service delivery, cost shifts to subscribers, access to and choice of managed care plans statewide, and quality of health services. The health care authority shall also advise on the value of administering a benchmark employer-managed plan to promote competition among managed care plans.

Sec. 4. RCW 41.05.050 and 2019 c 411 s 5 are each amended to read as follows:

(1)(a) Every((~~: (a) Department, division, or separate agency of state government; (b) county, municipal, school district, educational service district, or other political subdivisions; and (c) tribal governments as are covered by this~~

~~chapter,~~)) employer and employer group as defined in RCW 41.05.011 shall provide contributions to insurance and health care plans for its employees and their dependents, the content of such plans to be determined by the authority.

(b) Contributions((~~,~~)) paid by ((~~the county, the municipality, other political subdivision, or a tribal government~~)) employer groups for their employees, shall include an amount determined by the authority to pay such administrative expenses of the authority as are necessary to administer the plans for employees of those groups((~~, except as provided in subsection (4) of this section~~)).

(2) To account for any increased cost of ((~~benefits for the state and for state employees~~)) benefit plans developed by the board, the authority may develop a rate surcharge applicable to participating ((~~counties, municipalities, other political subdivisions, and tribal governments~~)) employer groups as defined in RCW 41.05.011.

(3) The contributions of any: (a) Department, division, or separate agency of the state government; (b) county, municipal, or other political subdivisions; (c) any tribal government as are covered by this chapter; and (d) school districts, educational service districts, and charter schools, shall be set by the authority, subject to the approval of the governor for availability of funds as specifically appropriated by the legislature for that purpose. Insurance and health care contributions for ferry employees shall be governed by RCW 47.64.270.

(4)(a) ((~~Until January 1, 2020, the authority shall collect from each participating school district and educational service district an amount equal to the composite rate charged to state agencies, plus an amount equal to the employee premiums by plan and family size as would be charged to employees, for groups of school district and educational service district employees enrolled in authority plans. The authority may collect these amounts in accordance with the school district or educational service district fiscal year, as described in RCW 28A.505.030.~~

~~(b)(i) For all groups of school district or educational service district employees enrolling in authority plans for the first time after September 1, 2003, and until January 1, 2020, the authority shall collect from each participating school district or educational service district an amount equal to the composite rate charged to state agencies, plus an amount equal to the employee premiums by plan and by family size as would be charged to employees, only if the authority determines that this method of billing the school districts and educational service districts will not result in a material difference between revenues from school districts and educational service districts and expenditures made by the authority on behalf of school districts and educational service districts and their employees. The authority may collect these amounts in accordance with the school district or educational service district fiscal year, as described in RCW 28A.505.030.~~

~~(ii)~~)) For all groups of educational service district employees enrolling in plans developed by the public employees' benefits board after January 1, 2020, and until January 1, 2024, the authority shall collect from each participating educational service district an amount equal to the composite rate charged to state agencies, plus an amount equal to the employee premiums by plan and by family size as would be charged to employees, only if the authority determines that this method of billing the educational service districts will not result in a material difference between revenues from educational service districts and

expenditures made by the authority on behalf of educational service districts and their employees. The authority may collect these amounts in accordance with the educational service district fiscal year, as described in RCW 28A.505.030.

(((~~(c) Until January 1, 2020, if the authority determines at any time that the conditions in (b) of this subsection cannot be met, the authority shall offer enrollment to additional groups of school and educational service district employees on a tiered rate structure until such time as the authority determines there would be no material difference between revenues and expenditures under a composite rate structure for all school and educational service district employees enrolled in authority plans.~~

~~(d)~~))) (b)(i) Beginning January 1, 2020, all school districts, represented employees of educational service districts, and charter schools shall commence participation in the school employees' benefits board program established under RCW 41.05.740. All school districts, represented employees of educational service districts, charter schools, and all school district employee groups participating in the public employees' benefits board plans before January 1, 2020, shall thereafter participate in the school employees' benefits board program administered by the authority. All school districts, represented employees of educational service districts, and charter schools shall provide contributions to the authority for insurance and health care plans for school employees and their dependents. These contributions must be provided to the authority for all eligible school employees eligible for benefits under RCW 41.05.740(6)(d), including school employees who have waived their coverage; contributions to the authority are not required for individuals eligible for benefits under RCW 41.05.740(6)(e) who waive their coverage.

(ii) Beginning January 1, 2024, all educational service districts shall participate in the school employees' benefits board program.

(((~~(e) For the purposes of this subsection, "tiered rates" means the amounts the authority must pay to insuring entities by plan and by family size.~~

~~(f) Notwithstanding this subsection and RCW 41.05.065(4), the authority may allow school districts and educational service districts enrolled on a tiered rate structure prior to September 1, 2002, and until January 1, 2020, to continue participation based on the same rate structure and under the same conditions and eligibility criteria.~~))

(5) The authority shall transmit a recommendation for the amount of the employer contributions to the governor and the director of financial management for inclusion in the proposed budgets submitted to the legislature.

Sec. 5. RCW 41.05.080 and 2018 c 260 s 15 are each amended to read as follows:

(1) Under the qualifications, terms, conditions, and benefits set by the public employees' benefits board:

(a) Retired or disabled state employees, retired or disabled school employees, or retired or disabled employees of ((~~county, municipal, or other political subdivisions, or retired or disabled employees of tribal governments~~)) employer groups covered by this chapter may continue their participation in insurance plans and contracts after retirement or disablement;

(b) Separated employees may continue their participation in insurance plans and contracts if participation is selected immediately upon separation from employment;

(c) Surviving spouses, surviving state registered domestic partners, and dependent children of emergency service personnel killed in the line of duty may participate in insurance plans and contracts.

(2) Rates charged surviving spouses and surviving state registered domestic partners of emergency service personnel killed in the line of duty, retired or disabled employees, separated employees, spouses, or dependent children who are not eligible for parts A and B of medicare shall be based on the experience of the community-rated risk pool established under RCW 41.05.022.

(3) Rates charged to surviving spouses and surviving state registered domestic partners of emergency service personnel killed in the line of duty, retired or disabled employees, separated employees, spouses, or children who are eligible for parts A and B of medicare shall be calculated from a separate experience risk pool comprised only of individuals eligible for parts A and B of medicare; however, the premiums charged to medicare-eligible retirees and disabled employees shall be reduced by the amount of the subsidy provided under RCW 41.05.085.

(4) Surviving spouses, surviving state registered domestic partners, and dependent children of emergency service personnel killed in the line of duty and retired or disabled and separated employees shall be responsible for payment of premium rates developed by the authority which shall include the cost to the authority of providing insurance coverage including any amounts necessary for reserves and administration in accordance with this chapter. These self pay rates will be established based on a separate rate for the employee, the spouse, state registered domestic partners, and the children.

(5) The term "retired state employees" for the purpose of this section shall include but not be limited to members of the legislature whether voluntarily or involuntarily leaving state office.

Sec. 6. RCW 41.05.195 and 2015 c 116 s 7 are each amended to read as follows:

Notwithstanding any other provisions of this chapter or rules or procedures adopted by the authority, the authority shall make available to retired or disabled employees who are enrolled in parts A and B of medicare one or more medicare supplemental insurance policies that conform to the requirements of chapter 48.66 RCW. The policies shall be chosen in consultation with the public employees' benefits board. These policies shall be made available to retired or disabled state employees; retired or disabled school district employees; retired employees of ((~~county, municipal, or other political subdivisions or retired employees of tribal governments~~)) employer groups eligible for coverage available under the authority; or surviving spouses or surviving state registered domestic partners of emergency service personnel killed in the line of duty.

Sec. 7. RCW 41.05.740 and 2018 c 260 s 1 are each amended to read as follows:

(1) The school employees' benefits board is created within the authority. The function of the school employees' benefits board is to design and approve insurance benefit plans for school employees and to establish eligibility criteria for participation in insurance benefit plans.

(2) By September 30, 2017, the governor shall appoint the following voting members to the school employees' benefits board as follows:

(a) Two members from associations representing certificated employees;

(b) Two members from associations representing classified employees;

(c) Four members with expertise in employee health benefits policy and administration, one of which is nominated by an association representing school business officials; and

(d) The director of the authority or his or her designee.

(3) Initial members of the school employees' benefits board shall serve staggered terms not to exceed four years. Members appointed thereafter shall serve two-year terms.

(4) Compensation and reimbursement related to school employees' benefits board member service are as follows:

(a) Members of the school employees' benefits board must be compensated in accordance with RCW 43.03.250 and must be reimbursed for their travel expenses while on official business in accordance with RCW 43.03.050 and 43.03.060.

(b) While school employees' benefits board members are carrying out their powers and duties under this chapter ((~~41.05 RCW~~)), if the service of any certificated or classified employee results in a need for a school employees' benefits board organization to employ a substitute for such certificated or classified employee during such service, payment for such a substitute may be made by the authority from funds appropriated by the legislature for the school employees' benefits board program. If such substitute is paid by the authority, no deduction shall be made from the salary of the certificated or classified employee. In no event shall a school employees' benefits board organization deduct from the salary of a certificated or classified employee serving on the school employees' benefits board more than the amount paid the substitute employed by the school employees' benefits board organization.

(5) The director of the authority or his or her designee shall be the chair and another member shall be selected by the school employees' benefits board as vice chair. The chair shall conduct meetings of the school employees' benefits board. The vice chair shall preside over meetings in the absence of the chair. The school employees' benefits board shall develop bylaws for the conduct of its business.

(6) The school employees' benefits board shall:

(a) Study all matters connected with the provision of health care coverage, life insurance, liability insurance, accidental death and dismemberment, and disability insurance, or any of, or combination of, the enumerated types of insurance for eligible school employees and their dependents on the best basis possible with relation both to the welfare of the school employees and the state. However, liability insurance should not be made available to dependents;

(b) Develop school employee benefit plans that include comprehensive, evidence-based health care benefits for school employees. In developing these plans, the school employees' benefits board shall consider the following elements:

(i) Methods of maximizing cost containment while ensuring access to quality health care;

(ii) Development of provider arrangements that encourage cost containment and ensure access to quality care including, but not limited to, prepaid delivery systems and prospective payment methods;

(iii) Wellness, preventive care, chronic disease management, and other incentives that focus on proven strategies;

(iv) Utilization review procedures to support cost-effective benefits delivery;

(v) Ways to leverage efficient purchasing by coordinating with the public employees' benefits board;

(vi) Effective coordination of benefits; and

(vii) Minimum standards for insuring entities;

(c) Authorize premium contributions for a school employee and the employee's dependents in a manner that encourages the use of cost-efficient health care systems. For participating school employees, the required school employee share of the cost for family coverage premiums may not exceed three times the premiums for a school employee purchasing single coverage for the same coverage plan;

(d) Determine the terms and conditions of school employee and dependent eligibility criteria, enrollment policies, and scope of coverage. Employer groups obtaining benefits through contractual agreement with the authority for school employees defined in RCW 41.05.011(6)(b)(iv) may contractually agree with the authority to benefits eligibility criteria which differs from that determined by the school employees' benefits board. At a minimum, the eligibility criteria established by the school employees' benefits board shall address the following:

(i) The effective date of coverage following hire;

(ii) The benefits eligibility criteria, but the school employees' benefits board's criteria shall be no more restrictive than requiring that a school employee be anticipated to work at least six hundred thirty hours per school year to be benefits eligible; and

(iii) Coverage for dependents, including criteria for legal spouses; children up to age twenty-six; children of any age with disabilities, mental illness, or intellectual or other developmental disabilities; and state registered domestic partners, as defined in RCW 26.60.020, and others authorized by the legislature;

(e) Establish terms and conditions for a school employees' benefits board organization to have the ability to locally negotiate eligibility criteria for a school employee who is anticipated to work less than six hundred thirty hours in a school year. A school employees' benefits board organization that elects to use a lower threshold of hours for benefits eligibility must use benefits authorized by the school employees' benefits board and shall do so as an enrichment to the state's definition of basic education;

(f) Establish penalties to be imposed when a school employees' benefits board organization fails to comply with established participation criteria; and

(g) Participate with the authority in the preparation of specifications and selection of carriers contracted for school employee benefit plan coverage of eligible school employees in accordance with the criteria set forth in rules. To the extent possible, the school employees' benefits board shall leverage efficient purchasing by coordinating with the public employees' benefits board.

(7) School employees shall choose participation in one of the health care benefit plans developed by the school employees' benefits board. Individual school employees eligible for benefits under subsection (6)(d) of this section may be permitted to waive coverage under terms and conditions established by the school employees' benefits board.

(8) By November 30, 2021, the authority shall review the benefit plans provided through the school employees' benefits board, complete an analysis of the benefits provided and the administration of the benefits plans, and determine whether provisions in chapter 13, Laws of 2017 3rd sp. sess. have resulted in cost savings to the state. The authority shall submit a report to the relevant legislative policy and fiscal committees summarizing the results of the review and analysis.

NEW SECTION. **Sec. 8.** A new section is added to chapter 41.05 RCW to read as follows:

(1) For purposes of this section, "school board member" means the board of directors of a school district as governed by chapter 28A.343 RCW or the board of directors of an educational service district as governed by chapter 28A.310 RCW.

(2) As of January 1, 2024, a school board member may participate in the benefit plans offered by and subject to the terms and conditions determined by the school employees' benefits board. A school board member may enroll in medical, dental, and vision benefits and shall be responsible for premium rates developed by the authority. A school board member shall be responsible for submitting the full self-pay premium amount for the benefits the member elects to enroll in for each month the member is covered.

(3) A school board member may participate in the school employees' benefits board program for the duration of the member's elected term as a school board member and may renew the member's participation at the start of each subsequent term as a school board member.

(4) If a school board member voluntarily ends the member's enrollment in the school employees' benefits board program prior to the end of their elected term, the member is no longer eligible under this section to participate in the school employees' benefits board program for the remainder of the member's elected term.

(5) This section does not create any eligibility for school board members to participate in retiree benefits provided by the public employees' benefits board program.

Passed by the Senate February 27, 2023.
Passed by the House March 22, 2023.
Approved by the Governor March 30, 2023.
Filed in Office of Secretary of State March 30, 2023.

CHAPTER 14

[Senate Bill 5394]

INTERNATIONAL MEDICAL GRADUATE SUPERVISORS—MALPRACTICE INSURANCE

AN ACT Relating to malpractice insurance for international medical graduate supervisors; and amending RCW 18.71.095.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 18.71.095 and 2021 c 204 s 1 are each amended to read as follows:

The commission may, without examination, issue a limited license to persons who possess the qualifications set forth herein:

(1) The commission may, upon the written request of the secretary of the department of social and health services, the secretary of children, youth, and families, or the secretary of corrections, issue a limited license to practice medicine in this state to persons who have been accepted for employment by the department of social and health services, the department of children, youth, and families, or the department of corrections as physicians; who are licensed to practice medicine in another state of the United States or in the country of Canada or any province or territory thereof; and who meet all of the qualifications for licensure set forth in RCW 18.71.050.

Such license shall permit the holder thereof to practice medicine only in connection with patients, residents, or inmates of the state institutions under the control and supervision of the secretary of the department of social and health services, the department of children, youth, and families, or the department of corrections.

(2) The commission may issue a limited license to practice medicine in this state to persons who have been accepted for employment by a county or city health department as physicians; who are licensed to practice medicine in another state of the United States or in the country of Canada or any province or territory thereof; and who meet all of the qualifications for licensure set forth in RCW 18.71.050.

Such license shall permit the holder thereof to practice medicine only in connection with his or her duties in employment with the city or county health department.

(3) Upon receipt of a completed application showing that the applicant meets all of the requirements for licensure set forth in RCW 18.71.050 except for completion of two years of postgraduate medical training, and that the applicant has been appointed as a resident physician in a program of postgraduate clinical training in this state approved by the commission, the commission may issue a limited license to a resident physician. Such license shall permit the resident physician to practice medicine only in connection with his or her duties as a resident physician and shall not authorize the physician to engage in any other form of practice. Each resident physician shall practice medicine only under the supervision and control of a physician licensed in this state, but such supervision and control shall not be construed to necessarily require the personal presence of the supervising physician at the place where services are rendered.

(4)(a) Upon nomination by the dean of an accredited school of medicine in the state of Washington or the chief executive officer of a hospital or other appropriate health care facility licensed in the state of Washington, the commission may issue a limited license to a physician applicant invited to serve as a teaching-research member of the institution's instructional staff if the sponsoring institution and the applicant give evidence that he or she has graduated from a recognized medical school and has been licensed or otherwise privileged to practice medicine at his or her location of origin. Such license shall permit the recipient to practice medicine only within the confines of the instructional program specified in the application and shall terminate whenever the holder ceases to be involved in that program, or at the end of one year, whichever is earlier. Upon request of the applicant and the institutional authority,

the license may be renewed. The holder of a teaching research license under this subsection (4)(a) is eligible for full licensure if the following conditions are met:

(i) If the applicant has not graduated from a school of medicine located in any state, territory, or possession of the United States, the District of Columbia, or the Dominion of Canada, the applicant must satisfactorily pass the certification process by the educational commission for foreign medical graduates;

(ii) The applicant has successfully completed the exam requirements set forth by the commission by rule;

(iii) The applicant has the ability to read, write, speak, understand, and be understood in the English language at a level acceptable for performing competent medical care in all practice settings;

(iv) The applicant has continuously held a position of associate professor or higher at an accredited Washington state medical school for no less than three years; and

(v) The applicant has had no disciplinary action taken in the previous five years.

(b) Upon nomination by the dean of an accredited school of medicine in the state of Washington or the chief executive officer of any hospital or appropriate health care facility licensed in the state of Washington, the commission may issue a limited license to an applicant selected by the sponsoring institution to be enrolled in one of its designated departmental or divisional fellowship programs provided that the applicant shall have graduated from a recognized medical school and has been granted a license or other appropriate certificate to practice medicine in the location of the applicant's origin. Such license shall permit the holder only to practice medicine within the confines of the fellowship program to which he or she has been appointed and, upon the request of the applicant and the sponsoring institution, the license may be renewed by the commission.

All persons licensed under this section shall be subject to the jurisdiction of the commission to the same extent as other members of the medical profession, in accordance with this chapter and chapter 18.130 RCW.

Persons applying for licensure and renewing licenses pursuant to this section shall comply with administrative procedures, administrative requirements, and fees determined as provided in RCW 43.70.250 and 43.70.280. Any person who obtains a limited license pursuant to this section may apply for licensure under this chapter, but shall submit a new application form and comply with all other licensing requirements of this chapter.

(5) The commission may issue a time-limited clinical experience license to an applicant who does not qualify for licensure under RCW 18.71.050 or chapter 18.71B RCW and who meets the requirements established by the commission in rule for the purpose of gaining clinical experience at an approved facility or program.

(6)(a) Upon nomination by the chief medical officer of any hospital, appropriate medical practice located in the state of Washington, the department of social and health services, the department of children, youth, and families, the department of corrections, or a county or city health department, the commission may issue a limited license to an international medical graduate if the applicant:

(i) Has been a Washington state resident for at least one year;

(ii) Provides proof the applicant is certified by the educational commission for foreign medical graduates;

(iii) Has passed all steps of the United States medical licensing examination; and

(iv) Submits to the commission background check process required of applicants generally.

(b) A license holder under this subsection may only practice:

(i) Under the supervision and control of a physician who is licensed in this state under this chapter ((~~18.71~~)) or chapter 18.57 RCW and is of the same or substantially similar clinical specialty; and

(ii) Within the nominating facility or organization.

(c) A license holder must file with the commission a practice agreement between the license holder and the supervising physician who is of the same or substantially similar clinical specialty.

(d) A supervising physician may supervise no more than two license holders under this subsection unless the commission grants a request to increase this limit.

(e) A limited license issued under this subsection is valid for two years and may be renewed once by the commission upon application for renewal by the nominating entity.

(f) All persons licensed under this subsection are subject to the jurisdiction of the commission to the same extent as other members of the medical profession, in accordance with this chapter and chapter 18.130 RCW.

(g) Persons applying for licensure and renewing licenses under this subsection shall comply with administrative procedures, administrative requirements, and fees determined as provided in RCW 43.70.250 and 43.70.280.

(h) The supervising physician shall retain professional and personal responsibility for any act which constitutes the practice of medicine as defined in RCW 18.71.011 or the practice of osteopathic medicine and surgery as defined in RCW 18.57.001 when performed by an international medical graduate practicing under their supervision. ((~~The supervising physician must hold medical malpractice insurance for any malpractice claim against an international medical graduate practicing under their supervision.~~))

Passed by the Senate February 28, 2023.
Passed by the House March 22, 2023.
Approved by the Governor March 30, 2023.
Filed in Office of Secretary of State March 30, 2023.

CHAPTER 15

[Substitute Senate Bill 5490]

RETIRED OR DISABLED PUBLIC EMPLOYEE HEALTH COVERAGE—SPECIAL ENROLLMENT OPPORTUNITY

AN ACT Relating to health care coverage for retired or disabled employees denied coverage for failure to timely notify the authority of their intent to defer coverage; adding a new section to chapter 41.05 RCW; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 41.05 RCW to read as follows:

(1) A retired or disabled employee who: (a) Is receiving a retirement allowance under chapters 41.32, 41.35, 41.37, or 41.40 RCW; (b) was previously denied coverage solely for failure to timely notify the authority of their plan to defer coverage; and (c) appealed the denial of benefits to the authority on or before December 31, 2022, may enroll in medical and dental plans under the authority, provided they apply no later than the end of the open enrollment period for the plan year beginning January 1, 2024.

(2) A retired or disabled employee enrolling in benefits under this section may only enroll in a fully-insured medicare advantage or medicare supplement plan.

(3) Retired or disabled employees and their dependents are responsible for payment of rates developed by the authority, and must include any amounts necessary for administration in accordance with this chapter. Premium rates charged to retired or disabled employees and their dependents shall be based on the experience of the community-rated risk pools established under RCW 41.05.022 and 41.05.080 and must be reduced by the amount of the subsidy provided under RCW 41.05.085.

(4) The authority may establish rules to implement the enrollment opportunity under this section.

NEW SECTION. **Sec. 2.** 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.

Passed by the Senate March 1, 2023.
Passed by the House March 22, 2023.
Approved by the Governor March 30, 2023.
Filed in Office of Secretary of State March 30, 2023.

CHAPTER 16

[Substitute Senate Bill 5729]
INSULIN COST-SHARING CAP—EXTENSION

AN ACT Relating to removing the expiration date on the cost-sharing cap for insulin; and amending RCW 48.43.780.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 48.43.780 and 2022 c 10 s 1 are each amended to read as follows:

(1) Except as required in subsection (2) of this section, a health plan issued or renewed on or after January 1, 2023, that provides coverage for prescription insulin drugs for the treatment of diabetes must cap the total amount that an enrollee is required to pay for a covered insulin drug at an amount not to exceed $35 per 30-day supply of the drug. Prescription insulin drugs must be covered without being subject to a deductible, and any cost sharing paid by an enrollee must be applied toward the enrollee's deductible obligation.

(2) If the federal internal revenue service removes insulin from the list of preventive care services which can be covered by a qualifying health plan for a health savings account before the deductible is satisfied, for a health plan that

provides coverage for prescription insulin drugs for the treatment of diabetes and is offered as a qualifying health plan for a health savings account, the carrier must establish the plan's cost sharing for the coverage of prescription insulin for diabetes at the minimum level necessary to preserve the enrollee's ability to claim tax exempt contributions from his or her health savings account under internal revenue service laws and regulations. The office of the insurance commissioner must provide written notice of the change in internal revenue service guidance to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the office.

(((~~(3) This section expires January 1, 2024.~~)))

Passed by the Senate February 28, 2023.
Passed by the House March 22, 2023.
Approved by the Governor March 30, 2023.
Filed in Office of Secretary of State March 30, 2023.

CHAPTER 17

[Engrossed Substitute Senate Bill 5272]
SPEED SAFETY CAMERAS—HIGHWAY WORK ZONES

AN ACT Relating to speed safety camera systems on state highways; amending RCW 46.63.030 and 46.63.075; adding a new section to chapter 46.63 RCW; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 46.63.030 and 2013 2nd sp.s. c 23 s 23 are each amended to read as follows:

(1) A law enforcement officer has the authority to issue a notice of traffic infraction:

(a) When the infraction is committed in the officer's presence, except as provided in RCW 46.09.485;

(b) When the officer is acting upon the request of a law enforcement officer in whose presence the traffic infraction was committed;

(c) If an officer investigating at the scene of a motor vehicle accident has reasonable cause to believe that the driver of a motor vehicle involved in the accident has committed a traffic infraction;

(d) When the infraction is detected through the use of an automated traffic safety camera under RCW 46.63.170; ((~~or~~))

(e) When the infraction is detected through the use of an automated school bus safety camera under RCW 46.63.180; or

(f) When the infraction is detected through the use of a speed safety camera system under section 3 of this act.

(2) A court may issue a notice of traffic infraction upon receipt of a written statement of the officer that there is reasonable cause to believe that an infraction was committed.

(3) If any motor vehicle without a driver is found parked, standing, or stopped in violation of this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution, the officer finding the vehicle shall take its registration number and may take any other information displayed

on the vehicle which may identify its user, and shall conspicuously affix to the vehicle a notice of traffic infraction.

(4) In the case of failure to redeem an abandoned vehicle under RCW 46.55.120, upon receiving a complaint by a registered tow truck operator that has incurred costs in removing, storing, and disposing of an abandoned vehicle, an officer of the law enforcement agency responsible for directing the removal of the vehicle shall send a notice of infraction by certified mail to the last known address of the person responsible under RCW 46.55.105. The notice must be entitled "Littering—Abandoned Vehicle" and give notice of the monetary penalty. The officer shall append to the notice of infraction, on a form prescribed by the department of licensing, a notice indicating the amount of costs incurred as a result of removing, storing, and disposing of the abandoned vehicle, less any amount realized at auction, and a statement that monetary penalties for the infraction will not be considered as having been paid until the monetary penalty payable under this chapter has been paid and the court is satisfied that the person has made restitution in the amount of the deficiency remaining after disposal of the vehicle.

Sec. 2. RCW 46.63.075 and 2012 c 83 s 6 are each amended to read as follows:

(1) In a traffic infraction case involving an infraction detected through the use of an automated traffic safety camera under RCW 46.63.170 ((~~or~~)), detected through the use of a speed safety camera system under section 3 of this act, or detected through the use of an automated school bus safety camera under RCW 46.63.180, proof that the particular vehicle described in the notice of traffic infraction was in violation of any such provision of RCW 46.63.170, section 3 of this act, and 46.63.180, together with proof that the person named in the notice of traffic infraction was at the time of the violation the registered owner of the vehicle, constitutes in evidence a prima facie presumption that the registered owner of the vehicle was the person in control of the vehicle at the point where, and for the time during which, the violation occurred.

(2) This presumption may be overcome only if the registered owner states, under oath, in a written statement to the court or in testimony before the court that the vehicle involved was, at the time, stolen or in the care, custody, or control of some person other than the registered owner.

NEW SECTION. **Sec. 3.** A new section is added to chapter 46.63 RCW to read as follows:

(1) This section applies to the use of speed safety camera systems in state highway work zones.

(2) Nothing in this section prohibits a law enforcement officer from issuing a notice of infraction to a person in control of a vehicle at the time a violation occurs under RCW 46.63.030(1)(a), (b), or (c).

(3)(a) The department of transportation is responsible for all actions related to the operation and administration of speed safety camera systems in state highway work zones including, but not limited to, the procurement and administration of contracts necessary for the implementation of speed safety camera systems and the mailing of notices of infraction. By July 1, 2024, the department of transportation, in consultation with the Washington state patrol, department of licensing, office of administrative hearings, Washington traffic

safety commission, and other organizations committed to protecting civil rights must adopt rules addressing such actions and take all necessary steps to implement this section.

(b) The Washington state patrol is responsible for all actions related to the enforcement and adjudication of speed violations under this section including, but not limited to, notice of infraction verification and issuance authorization, and determining which types of emergency vehicles are exempt from being issued notices of infraction under this section. By July 1, 2024, the Washington state patrol, in consultation with the department of transportation, department of licensing, office of administrative hearings, Washington traffic safety commission, and other organizations committed to protecting civil rights must adopt rules addressing such actions and take all necessary steps to implement this section.

(c) When establishing rules under this subsection (3), the department of transportation and the Washington state patrol may also consult with other public and private agencies that have an interest in the use of speed safety camera systems in state highway work zones.

(4) Beginning July 1, 2024:

(a) A notice of infraction may only be issued under this section if a speed safety camera system captures a speed violation in a state highway work zone when workers are present. A notice of infraction under this section may be mailed to the registered owner of the vehicle within 30 days of the violation, or to the renter of a vehicle within 30 days of establishing the renter's name and address. The law enforcement officer issuing the notice of infraction shall include with it a certificate or facsimile thereof, based upon inspection of photographs, microphotographs, or electronic images produced by a speed safety camera stating the facts supporting the notice of infraction. This certificate or facsimile is prima facie evidence of the facts contained in it and is admissible in a proceeding charging a violation under this section. The photographs, microphotographs, or electronic images evidencing the violation must be available for inspection and admission into evidence in a proceeding to adjudicate the liability for the violation. A person receiving a notice of infraction based on evidence detected by a speed safety camera system may, within 30 days of receiving the notice of infraction, remit payment in the amount of the penalty assessed for the violation. If a person receiving a notice of infraction fails to remit payment in the amount of the penalty assessed within 30 days of receiving the notice of infraction, or if such person wishes to dispute the violation, it must be adjudicated in accordance with (b) of this subsection.

(b) A notice of infraction that has not been timely paid or a disputed notice of infraction shall be referred to the office of administrative hearings for adjudication consistent with chapter 34.05 RCW.

(c) Speed safety camera systems may only take photographs, microphotographs, or electronic images of the vehicle and vehicle license plate and only while a speed violation is occurring. The photograph, microphotograph, or electronic image must not reveal the face of the driver or any passengers in the vehicle. The department of transportation shall consider installing speed safety camera systems in a manner that minimizes the impact of camera flash on drivers.

(d) The registered owner of a vehicle is responsible for a traffic infraction under RCW 46.63.030 unless the registered owner overcomes the presumption in RCW 46.63.075 or, in the case of a rental car business, satisfies the conditions under (h) of this subsection. If appropriate under the circumstances, a renter identified under (h)(i) of this subsection is responsible for the traffic infraction.

(e) Notwithstanding any other provision of law, all photographs, microphotographs, or electronic images, or any other personally identifying data prepared under this section are for the exclusive use of the Washington state patrol and department of transportation in the discharge of duties under this section and are not open to the public and may not be used in court in a pending action or proceeding unless the action or proceeding relates to a speed violation under this section. This data may be used in administrative appeal proceedings relative to a violation under this section.

(f) All locations where speed safety camera systems are used must be clearly marked before activation of the camera system by placing signs in locations that clearly indicate to a driver that they are entering a state highway work zone where posted speed limits are monitored by a speed safety camera system. Additionally, where feasible and constructive, radar speed feedback signs will be placed in advance of the speed safety camera system to assist drivers in complying with posted speed limits. Signs placed in these locations must follow the specifications and guidelines under the manual of uniform traffic control devices for streets and highways as adopted by the department of transportation under chapter 47.36 RCW.

(g) Speed violations detected through the use of speed safety camera systems are not part of the registered owner's driving record under RCW 46.52.101 and 46.52.120.

(h) If the registered owner of the vehicle is a rental car business, the department of transportation shall, before a notice of infraction may be issued under this section, provide a written notice to the rental car business that a notice of infraction may be issued to the rental car business if the rental car business does not, within 30 days of receiving the written notice, provide to the issuing agency by return mail:

(i)(A) A statement under oath stating the name and known mailing address of the individual driving or renting the vehicle when the speed violation occurred;

(B) A statement under oath that the business is unable to determine who was driving or renting the vehicle at the time the speed violation occurred because the vehicle was stolen at the time of the violation. A statement provided under this subsection (4)(h)(i)(B) must be accompanied by a copy of a filed police report regarding the vehicle theft; or

(C) In lieu of identifying the vehicle operator, payment of the applicable penalty.

(ii) Timely mailing of a statement to the department of transportation relieves a rental car business of any liability under this chapter for the notice of infraction.

(5) Revenue generated from the deployment of speed safety camera systems must be deposited into the highway safety fund and first used exclusively for the operating and administrative costs under this section. The operation of speed safety camera systems is intended to increase safety in state highway work zones

by changing driver behavior. Consequently, any revenue generated that exceeds the operating and administrative costs under this section must be distributed for the purpose of traffic safety including, but not limited to, driver training education and local DUI emphasis patrols.

(6) The Washington state patrol and department of transportation, in collaboration with the Washington traffic safety commission, must report to the transportation committees of the legislature by July 1, 2025, and biennially thereafter, on the data and efficacy of speed safety camera system use in state highway work zones. The final report due on July 1, 2029, must include a recommendation on whether or not to continue such speed safety camera system use beyond June 30, 2030.

(7) For the purposes of this section:

(a) "Speed safety camera system" means employing the use of speed measuring devices and cameras synchronized to automatically record one or more sequenced photographs, microphotographs, or other electronic images of a motor vehicle that exceeds a posted state highway work zone speed limit as detected by the speed measuring devices.

(b) "State highway work zone" means an area of any highway with construction, maintenance, utility work, or incident response activities authorized by the department of transportation. A state highway work zone is identified by the placement of temporary traffic control devices that may include signs, channelizing devices, barriers, pavement markings, and/or work vehicles with warning lights. It extends from the first warning sign or high intensity rotating, flashing, oscillating, or strobe lights on a vehicle to the end road work sign or the last temporary traffic control device or vehicle.

(8) This section expires June 30, 2030.

Passed by the Senate March 29, 2023.
Passed by the House March 24, 2023.
Approved by the Governor April 4, 2023.
Filed in Office of Secretary of State April 4, 2023.

CHAPTER 18

[Substitute House Bill 1007]

STATE RETIREMENT SYSTEMS—INTERRUPTIVE MILITARY SERVICE CREDIT

AN ACT Relating to interruptive military service credit for members of the state retirement systems; amending RCW 41.04.005; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 41.04.005 and 2020 c 178 s 1 are each amended to read as follows:

(1) As used in this section and RCW 41.16.220, 41.20.050, and 41.40.170 "veteran" includes every person, who at the time he or she seeks the benefits of this section and RCW 41.16.220, 41.20.050, or 41.40.170 has received an honorable discharge, is actively serving honorably, or received a discharge for physical reasons with an honorable record and who meets at least one of the following criteria:

(a) The person has served between World War I and World War II or during any period of war, as defined in subsection (2) of this section, as either:

(i) A member in any branch of the armed forces of the United States;

(ii) A member of the women's air forces service pilots;

(iii) A U.S. documented merchant mariner with service aboard an oceangoing vessel operated by the war shipping administration, the office of defense transportation, or their agents, from December 7, 1941, through December 31, 1946; or

(iv) A civil service crewmember with service aboard a U.S. army transport service or U.S. naval transportation service vessel in oceangoing service from December 7, 1941, through December 31, 1946; or

(b) The person has received the armed forces expeditionary medal, or marine corps and navy expeditionary medal, for opposed action on foreign soil, for service:

(i) In any branch of the armed forces of the United States; or

(ii) As a member of the women's air forces service pilots.

(2) A "period of war" includes:

(a) World War I;

(b) World War II;

(c) The Korean conflict;

(d) The Vietnam era, which means:

(i) The period beginning on February 28, 1961, and ending on May 7, 1975, in the case of a veteran who served in the Republic of Vietnam during that period;

(ii) The period beginning August 5, 1964, and ending on May 7, 1975;

(e) The Persian Gulf War, which was the period beginning August 2, 1990, and ending on February 28, 1991, or ending on November 30, 1995, if the participant was awarded a campaign badge or medal for such period;

(f) The period beginning on the date of any future declaration of war by the congress and ending on the date prescribed by presidential proclamation or concurrent resolution of the congress; and

(g) Any armed conflicts, if the participant was awarded the respective campaign or expeditionary badge or medal, or if the service was such that a campaign or expeditionary badge or medal would have been awarded, except that the member already received a campaign or expeditionary badge or medal for a prior deployment during that same conflict.

NEW SECTION. **Sec. 2.** The definition of veteran in section 1 of this act is retroactive for purposes of the retirement systems listed in RCW 41.50.030. Members who retired prior to the effective date of this act with eligible military service must have retirement benefits recalculated and contributions adjusted consistent with the terms of this act.

Passed by the House February 1, 2023.

Passed by the Senate March 22, 2023.

Approved by the Governor April 6, 2023.

Filed in Office of Secretary of State April 6, 2023.

CHAPTER 19

[Substitute House Bill 1015]

PARAEDUCATOR EMPLOYMENT—ASSESSMENTS

AN ACT Relating to minimum employment requirements for paraeducators; and amending RCW 28A.413.040 and 28A.413.030.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 28A.413.040 and 2018 c 153 s 1 are each amended to read as follows:

(1)(a) A person working as a paraeducator for a school district before or during the 2017-18 school year must meet the requirements of subsection (2) of this section by the date of hire for the 2019-20 school year or any subsequent school year.

(b) A person who has not previously worked as a paraeducator for a school district must meet the requirements of subsection (2) of this section by the date of hire for the 2018-19 school year or any subsequent school year.

(2) The minimum employment requirements for paraeducators are as provided in this subsection. A paraeducator must:

(a) Be at least ((~~eighteen~~)) 18 years of age and hold a high school diploma or its equivalent; and

(b) Meet one of the following requirements:

(i) Have received a passing ((~~grade~~)) score on ((~~the education testing service paraeducator assessment~~)) one of the assessments approved by the board; ((~~or~~))

(ii) Hold an associate of arts degree; ((~~or~~))

(iii) Have earned ((~~seventy-two~~)) 72 quarter credits or ((~~forty-eight~~)) 48 semester credits at an institution of higher education; or

(iv) Have completed a registered apprenticeship program.

Sec. 2. RCW 28A.413.030 and 2017 c 237 s 4 are each amended to read as follows:

(1) The paraeducator board has the following powers and duties:

(a) Based on the recommendations of the paraeducator work group established in chapter 136, Laws of 2014, adopt: (i) Minimum employment requirements for paraeducators, as described in RCW 28A.413.040; and (ii) paraeducator standards of practice, as described in RCW 28A.413.050;

(b) Adopt one or more assessments that meet a rigorous standard of quality and can be used to demonstrate knowledge of, and the ability to assist in, instruction in reading, writing, and mathematics, as well as set a passing score for each assessment adopted. The board may develop assessments to meet the requirement of this subsection (1)(b);

(c) Establish requirements and policies for a general paraeducator certificate, as described in RCW 28A.413.070;

(((~~c~~))) (d) Based on the recommendations of the paraeducator work group established in chapter 136, Laws of 2014, establish requirements and policies for subject matter certificates in English language learner and special education, as described in RCW 28A.413.080;

(((~~d~~))) (e) Based on the recommendations of the paraeducator work group established in chapter 136, Laws of 2014, establish requirements and policies for an advanced paraeducator certificate, as described in RCW 28A.413.090;

((~~(e)~~)) (f) By September 1, 2018, approve, and develop if necessary, courses required to meet the provisions of this chapter, where the courses are offered in a variety of means that will limit cost and improve access;

((~~(f)~~)) (g) Make policy recommendations, as necessary, for a paraeducator career ladder that will increase opportunities for paraeducator advancement through advanced education, professional learning, and increased instructional responsibility;

((~~(g)~~)) (h) Collaborate with the office of the superintendent of public instruction to adapt the electronic educator certification process to include paraeducator certificates; and

((~~(h)~~)) (i) Adopt rules under chapter 34.05 RCW that are necessary for the effective and efficient implementation of this chapter.

(2) The superintendent of public instruction shall act as the administrator of any such rules and have the power to issue any paraeducator certificates and revoke the same in accordance with board rules.

Passed by the House February 2, 2023.
Passed by the Senate March 22, 2023.
Approved by the Governor April 6, 2023.
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CHAPTER 20

[Substitute House Bill 1060]

DOMESTIC MUTUAL INSURERS—REORGANIZATION

AN ACT Relating to reorganization of domestic mutual insurers; amending RCW 48.09.350; and adding new sections to chapter 48.09 RCW.

Be it enacted by the Legislature of the State of Washington:

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

(1) "Board" means the board of directors of a converting mutual insurer.

(2) "Conversion" means a process by which a domestic mutual insurer is converted to a domestic stock insurer as part of a reorganization.

(3) "Converted stock insurer" means a domestic stock insurer into which a domestic mutual insurer is converted as part of a reorganization.

(4) "Converting mutual insurer" means a domestic mutual insurer that is converting to a domestic stock insurer as part of a reorganization.

(5) "Effective date" means, with respect to a plan, the date on which the plan or a part of the plan becomes effective as set forth in an order of the commissioner.

(6) "Eligible member" means a member of the converting mutual insurer whose insurance policy is in force as of the date on which the board adopts the plan or on some other date that the plan specifies as the record date and that the commissioner approves.

(7) "Intermediate stock holding company" means a corporation that satisfies all of the following:

(a) The corporation was incorporated under chapter 23B.02 RCW;

(b) A mutual holding company holds directly or indirectly at least a majority of the corporation's voting stock; and

(c) The corporation holds directly or indirectly at least a majority of the voting stock of a converted stock insurer.

(8) "Member" means:

(a) With respect to a domestic mutual insurer, a member as described in RCW 48.09.110; or

(b) With respect to a mutual holding company, any holder of one or more policies of insurance, other than a policy of reinsurance, issued by the converted stock insurer resulting from a reorganization involving the organization of a mutual holding company and, if permitted under the articles of incorporation or bylaws of the mutual holding company, may include any holder of one or more policies of insurance, other than a policy of reinsurance, issued by any other insurer that is a direct or indirect subsidiary or affiliate of the mutual holding company.

(9) "Membership interest" means:

(a) With respect to a converting mutual insurer, interest as set forth in RCW 48.09.120; or

(b) With respect to a mutual holding company on and after the effective date of the plan, any right that a member of the mutual holding company may hold by virtue of membership in the mutual holding company arising under the articles of incorporation and bylaws of the mutual holding company, including the right to vote for the board.

(10) "Mutual holding company" means a corporation that is formed and existing under the laws of this state and pursuant to the reorganization of a mutual insurance company.

(11) "Plan" means a plan of reorganization.

(12) "Reorganization" means a process by which a domestic mutual insurer is converted to a domestic stock insurer and a mutual holding company is organized.

(13)(a) "Voting stock" means stock of any class or any percentage ownership interest having voting power for the election of directors, trustees, or management.

(b) "Voting stock" includes stock having voting power only by reason of the happening of a contingency.

NEW SECTION. **Sec. 2.** (1) A domestic mutual insurer may engage in a conversion as part of a reorganization as a mutual holding company only if the board passes a resolution that the reorganization is fair and equitable to the policyholders and adopts a plan that meets the requirements of this chapter.

(2) After the board has adopted a plan and before the board seeks approval of the plan by the eligible members of the converting mutual insurer, the converting mutual insurer shall file the following documents with the commissioner:

(a) The plan;

(b) The form of notice of the meeting at which the eligible members vote on the plan;

(c) The form of any proxies to be solicited from the eligible members. Proxies must offer the eligible members the option of voting in favor of or voting against the plan or abstaining from voting;

(d) Information required by the converting mutual insurer's bylaws; and

(e) Other information or documentation required by the commissioner.

(3) The commissioner shall approve or disapprove a plan and other documents submitted under this chapter. The commissioner must approve or disapprove the plan within 60 days after the commissioner receives a completed filing of the plan and all information requested by the commissioner or within 60 days after the completion of a hearing on the plan, whichever date is later.

(4) At any time before the commissioner approves a plan, the board may amend or withdraw the plan.

(5) After the commissioner approves a plan, the eligible members of the converting mutual insurer must approve the plan. Approval by the eligible members is subject to the following requirements:

(a) All eligible members must be given notice of the plan and of their opportunity to vote on the plan. A copy of the plan or a summary of the plan must accompany the notice. The notice shall be mailed to the last known address of each eligible member, as shown on the records of the converting mutual insurer, within 45 days after the commissioner approves the plan. The meeting of the eligible members at which a vote on the plan will occur shall be set for a date that is not earlier than the 30th day after the date on which the mutual insurer mailed the notice of the meeting. If the converting mutual insurer complies substantially and in good faith with the notice requirements of this subsection (5)(a), the converting mutual insurer's failure to give any member or members any required notice does not impair the validity of any action taken under this section.

(b) The vote required for approval must be conducted in accordance with the converting mutual insurer's bylaws, except that:

(i) Only eligible members may vote on the plan;

(ii) An eligible member may vote in person or by proxy at the meeting at which the plan is voted on; and

(iii) The plan is approved by the eligible members on the affirmative vote of two-thirds or more of the eligible members voting on the plan, unless the bylaws require a greater number of affirmative votes. The converting mutual insurer shall file with the commissioner a certification that the plan has been duly adopted by a vote of at least two-thirds of the eligible members.

(6) The plan shall be carried out in accordance with its terms on the effective date of the reorganization.

(7) Except as otherwise provided in this section, all information and documents obtained by or disclosed to the commissioner or any other person in the course of preparing, filing, and processing an application to reorganize, other than information and documents distributed to policyholders or filed and submitted as evidence in connection with a public hearing held pursuant to chapter 48.04 RCW and the administrative procedure act, chapter 34.05 RCW, are confidential and not subject to subpoena and must not be made public except to insurance departments of other states, with the prior written consent of the insurer to which such information and documents pertain.

NEW SECTION. **Sec. 3.** A plan of a domestic mutual insurer shall include the following:

(1) A statement of the reasons for the proposed action;

(2) A description of how the plan will be carried out, including any transaction included within the plan and a description of any mutual holding

company, intermediate stock holding company, or other corporation organized pursuant to the plan;

(3) A description of all significant terms of the reorganization;

(4) New or revised intercompany agreements;

(5) A description of the overall effect of the plan on policies issued by the converting mutual insurer. The description must show that policyholder interests collectively are properly preserved and protected and that the plan is fair and equitable to the policyholders;

(6) The record date for determining whether a member of the converting mutual insurer is an eligible member;

(7) The proposed effective date of the reorganization or the manner in which the proposed effective date of the reorganization is established;

(8) The proposed amendments to or restatement of the articles of incorporation and bylaws of the converting mutual insurer and the proposed articles of incorporation and bylaws of any mutual holding company, intermediate stock holding company, or other corporation organized pursuant to the plan;

(9) A description of any plans for the initial sale of voting stock to third parties by the converted stock insurer or any intermediate stock holding company, or a statement that the converted stock insurer or intermediate stock holding company has no current plans for the sale of voting stock;

(10) The intention, if any, that a director or officer of the converting mutual insurer, mutual holding company, intermediate stock holding company, or other corporation organized pursuant to the plan, within the three-year period following the effective date of the conversion or reorganization, may purchase or acquire shares of capital stock or other securities of an issuer to be issued pursuant to the plan; and

(11) A provision that all policies in force on the effective date of the conversion or reorganization will remain in force under the terms of those policies and that on the effective date of the reorganization, any voting rights of the members provided for under the policies or under this title are extinguished.

NEW SECTION. **Sec. 4.** (1) The commissioner shall review a plan that is submitted to the commissioner. On review, the commissioner shall approve the plan if the commissioner finds all of the following:

(a) The applicable provisions of this chapter, and other applicable provisions of law, have been fully met;

(b) The plan protects the rights of policyholders;

(c) The plan is fair and equitable to the members and the plan does not prejudice the interests of the members;

(d) The converted stock insurer has capital or surplus, or any combination thereof, that is required of a domestic stock insurer on initial authorization to transact like kinds of insurance, and otherwise is able to satisfy the requirements of this state for transacting its insurance business;

(e) The plan does not substantially reduce the security of the policyholders and the service to be rendered to the policyholders;

(f) The financial condition of the mutual holding company or any subsidiary of the mutual holding company does not jeopardize the financial stability of the converted stock insurer;

(g) The financial condition of the converting mutual insurer is not jeopardized by the conversion or reorganization, and the conversion or reorganization does not jeopardize the financial stability of the mutual holding company or any subsidiary of the mutual holding company; and

(h) The competence, experience, and integrity of those persons who control the operation of the converted stock insurer are not contrary to the interests of policyholders of the converted stock insurer and of the public in allowing the plan to proceed.

(2) To the extent the plan contains a provision that allows for the acquisition or merger of other insurance companies, the commissioner shall apply the standards for scrutinizing mergers and acquisitions provided in RCW 48.31B.015. The commissioner may not approve a plan that fails to meet these standards.

(3) An approval of a plan by the commissioner expires if the plan is not carried out within one year after the date of the approval, unless the commissioner extends the time period for good cause on written application for such extension.

(4) The commissioner may retain, at the expense of the converting mutual insurer, qualified experts not otherwise a part of the staff of the department to assist in reviewing the plan and supplemental documents.

(5) The commissioner may hold a hearing as prescribed in chapter 48.04 RCW and the administrative procedure act, chapter 34.05 RCW, for the purposes of receiving comments on whether a plan should be approved and on any other matter relating to the reorganization. The hearing, if held, shall be held within 60 days after the commissioner receives a completed filing of the plan and all information required by the commissioner.

NEW SECTION. **Sec. 5.** (1) A mutual holding company is not an insurer for the purposes of this title, except that RCW 48.07.030, 48.09.130, 48.09.160, 48.09.120, 48.09.300, 48.09.350, and 48.09.360 apply to a mutual holding company as if the mutual holding company were a domestic mutual insurer.

(2) Except where inconsistent with the provisions of this section, RCW 48.07.030, 48.09.110(2) through 48.09.160, 48.09.360, and 48.36A.390 shall be interpreted to apply to a mutual holding company in the same manner as if the mutual holding company were a domestic mutual insurer, considering the fact that a mutual holding company does not issue policies and does not have a certificate of authority. For purposes of this subsection, any references therein to a policy issued by, or a certificate of authority of, a domestic mutual insurer shall be interpreted to be references to a policy issued by, or a certificate of authority of, a stock insurer subsidiary of a mutual holding company whose policyholders are members of the mutual holding company.

(3) A mutual holding company may not dissolve or liquidate without approval by the commissioner or unless required by judicial order. The commissioner retains jurisdiction over a mutual holding company, any intermediate stock holding company, and any subsidiary of an intermediate stock holding company as provided in this section and RCW 48.31B.035.

(4) The members of a mutual holding company have the rights and obligations set forth in this section and in the articles of incorporation and bylaws of the mutual holding company. A member of a mutual holding company may not transfer membership in the mutual holding company or any right arising

from such membership. Such limitation on the transfer of membership or rights arising from membership does not restrict the assignment of a policy that is otherwise permissible. A member of a mutual holding company is not personally liable for the acts, debts, liabilities, or obligations of the mutual holding company merely by reason of being a member. An assessment of any kind may not be imposed on a member of a mutual holding company. Any premium due under an insurance policy or contract issued to a member of a mutual holding company is not considered an assessment.

(5) A membership interest in a mutual holding company does not constitute a security as defined in RCW 21.20.005.

(6) Each member of a mutual holding company is entitled to one vote on each matter coming before a meeting of the members and for each director to be elected regardless of the number of policies or amount of insurance and benefits held by such member. The mutual holding company's bylaws shall set forth the voting rights of the members of a mutual holding company.

(7) Meetings of the members of a mutual holding company shall be governed in the same manner as if the mutual holding company were a domestic mutual insurer, including provisions governing quorum requirements, the approval of matters by the members, and the election of directors by the members.

(8) The articles of incorporation of a mutual holding company shall contain the following provisions:

(a) The name of the mutual holding company. The name shall include the words "mutual holding company" or "mutual insurance holding company" or other words connoting the mutual character of the mutual holding company that are approved by the commissioner;

(b) A provision specifying that the mutual holding company is not authorized to issue capital stock, whether voting or nonvoting; and

(c) A provision setting forth any rights of the members of the mutual holding company on dissolution or liquidation.

(9) A mutual holding company shall automatically be a party to any rehabilitation or liquidation proceeding involving the converted stock insurer that as a result of a reorganization is a direct or indirect subsidiary of the mutual holding company. In such a proceeding, the assets of the mutual holding company shall be counted as assets of the estate of the converted stock insurer for the purpose of satisfying the claims of the policyholders of the converted stock insurer.

NEW SECTION. **Sec. 6.** The concurrent reorganization of a domestic mutual insurer with one or more mutual insurers, domestic or foreign, into a single mutual holding company, whether domestic or foreign, may be accomplished by a joint application and a joint plan and may be approved by the commissioner by complying with the requirements of this chapter. The commissioner may determine that such other procedures are unnecessary to avoid duplicative costs and efforts in satisfying the requirements of this chapter and effectuating the reorganization.

NEW SECTION. **Sec. 7.** (1) A foreign mutual insurer organized under the laws of any other state, that, if a domestic corporation, would be organized under RCW 48.09.010, may reorganize by merging its policyholders' membership

interests into an existing domestic mutual holding company in accordance with the requirements of any other law or regulation that applies to the foreign mutual insurer. The reorganization shall continue the corporate existence of the converting mutual insurer as a foreign stock insurance company subsidiary of the existing domestic mutual holding company or as a foreign stock insurance company subsidiary of an intermediate stock holding company. The reorganizing foreign mutual insurer may remain a foreign insurer after the restructuring and may be admitted to do business in this state if it meets the applicable requirements of this title. A foreign mutual insurer that is a party to the reorganization may at the same time redomesticate to this state by complying with the applicable requirements of this state and the foreign mutual insurer's state of domicile.

(2) For the purposes of this section, "existing domestic mutual holding company" means a mutual holding company formed under this chapter.

Sec. 8. RCW 48.09.350 and 1984 c 23 s 1 are each amended to read as follows:

(1) Upon satisfaction of the requirements applicable to the formation of a domestic stock insurer, a domestic mutual insurer may be reorganized as a stock corporation, pursuant to a plan of reorganization as approved by the commissioner.

(2) A domestic mutual insurer may be wholly reinsured in and its assets transferred to and its liabilities assumed by another mutual or stock insurer under such terms and conditions as are approved by the commissioner in advance of such reinsurance.

(3) The commissioner shall not approve any such reorganization plan or reinsurance agreement which does not determine the amount of and make adequate provision for paying to members of such mutual insurer, reasonable compensation for their equities as owners of such insurer, such compensation to be apportioned to members as identified and in the manner prescribed in RCW 48.09.360. The procedure for approval by the commissioner of any such reorganization plan or reinsurance agreement shall be the same as the procedure for approval by the commissioner of a plan of merger or consolidation under RCW 48.31.010.

Approval at a corporate meeting of members by two-thirds of the then members of a domestic mutual insurer who vote on the plan or agreement pursuant to such notice and procedure as was approved by the commissioner shall constitute approval of any such reorganization plan or reinsurance agreement by the insurer's members.

(4) The following applies if a mutual holding company conversion occurs:

(a) On the effective date of a plan, all of the following shall occur:

(i) The converting mutual insurer becomes a converted stock insurer. The amended or restated articles of incorporation and bylaws of the converting mutual insurer shall be filed with the commissioner as part of the plan and shall become effective on the effective date of the conversion. The commissioner shall amend the certificate of authority of the converting mutual insurer on the effective date of the conversion;

(ii) All membership interests and rights in surplus of the converting mutual insurer are extinguished and the members of the converting mutual insurer become members of the mutual holding company in accordance with this

chapter and the articles of incorporation and bylaws of the mutual holding company;

(iii) Any owner of one or more policies of insurance, other than a policy of reinsurance, issued by the converted stock insurer after the effective date of the conversion and, if permitted under the articles of incorporation or bylaws of the mutual holding company, any holder of one or more policies of insurance, other than a policy of reinsurance, issued by any other insurer that is a direct or indirect subsidiary or affiliate of the mutual holding company after the effective date of the reorganization becomes a member of the mutual holding company;

(iv) The mutual holding company or, if created, an intermediate stock holding company acquires and shall retain all shares of the voting stock of the converted stock insurer;

(v) The mutual holding company acquires and shall retain all shares of the voting stock of any intermediate stock holding company; and

(vi) A converted stock insurer continues the corporate existence of the converting mutual insurer. Except as provided in the plan, the conversion does not annul, modify, or change any existing license or other authority or any of the existing civil actions, rights, contracts, or liabilities of the converting mutual insurer. The converted stock insurer retains all property, debts, and choses in action and every other interest belonging to the converting mutual insurer before the conversion without further action needed. On and after the effective date of the conversion, the converted stock insurer may exercise all rights and powers conferred and shall perform all duties imposed by law on insurers writing the classes of insurance written by the converted stock insurer, shall retain the rights and contracts of the converting mutual insurer existing immediately before the conversion, and shall be subject to all obligations and liabilities of the converting mutual insurer existing immediately before the conversion, subject to the terms of the plan.

(b) Any intermediate stock holding company created at the time of reorganization to hold the stock of the converting mutual insurer shall be incorporated under chapter 23B.02 RCW and may engage in any business or activity permitted by chapter 23B.02 RCW.

(c) The converted stock insurer and any intermediate stock holding company may issue to third parties debt securities, stock other than voting stock, and voting stock if all of the following apply:

(i) No shares of stock representing a majority of the voting power of all issued and outstanding voting stock of either the converted stock insurer or the intermediate stock holding company, if any, are issued to third parties; and

(ii) A majority of the voting stock of the converted stock insurer is at all times owned by the mutual holding company or by the intermediate stock holding company, a majority of whose voting stock is held by the mutual holding company, and such majority interest in the converted stock insurer and any intermediate stock holding company is not conveyed, transferred, assigned, pledged, subjected to a security interest or lien, placed in a voting trust, encumbered, or otherwise hypothecated or alienated by the mutual holding company or by the intermediate stock holding company. Any conveyance, transfer, assignment, pledge, security interest, lien, placement in a voting trust, encumbrance, or hypothecation or alienation of, in, or on a majority of the voting shares of the converted stock insurer or the intermediate stock holding company

in violation of this subsection (4)(c)(ii) is void in inverse chronological order as to the shares necessary to constitute a majority of such voting stock.

(d) Unless otherwise specified in the plan, the directors and officers of the converting mutual insurer shall serve as directors and officers of the mutual holding company, any intermediate stock holding company, and the converted stock insurer until new directors and officers are elected.

NEW SECTION. **Sec. 9.** Sections 1 through 7 of this act are each added to chapter 48.09 RCW and codified with the subchapter heading of "Reorganization of domestic mutual insurers."

Passed by the House February 13, 2023.
Passed by the Senate March 22, 2023.
Approved by the Governor April 6, 2023.
Filed in Office of Secretary of State April 6, 2023.

CHAPTER 21

[House Bill 1061]

INSURANCE PRODUCERS—PRELICENSING EDUCATION

AN ACT Relating to the elimination of prelicensing education requirements for licensed insurance producers; and amending RCW 48.17.090.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 48.17.090 and 2009 c 162 s 15 are each amended to read as follows:

(1) An individual applying for a resident insurance producer license shall make application to the commissioner on the uniform application and declare under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. As a part of or in connection with the application, the individual applicant shall furnish information concerning the applicant's identity, including fingerprints for submission to the Washington state patrol, the federal bureau of investigation, and any governmental agency or entity authorized to receive this information for a state and national criminal history background check. If, in the process of verifying fingerprints, business records, or other information, the commissioner's office incurs fees or charges from another governmental agency or from a business firm, the amount of the fees or charges shall be paid to the commissioner's office by the applicant.

(2) Before approving the application, the commissioner shall find that the individual:

(a) Is at least eighteen years of age;

(b) Has not committed any act that is a ground for denial, suspension, or revocation set forth in RCW 48.17.530;

(c) ((~~Has completed a prelicensing course of study for the lines of authority for which the person has applied;~~

~~(d)~~)) Has paid the fees set forth in RCW 48.14.010; and

(((~~(e)~~))) (d) Has successfully passed the examinations for the lines of authority for which the person has applied.

(3) A resident business entity acting as an insurance producer is required to obtain an insurance producer license. Application shall be made using the

uniform business entity application, and the individual signing the application shall declare under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the commissioner shall find that:

(a) The business entity has paid the fees set forth in RCW 48.14.010;

(b) The business entity has designated a licensed insurance producer responsible for the business entity's compliance with the insurance laws and rules of this state; and

(c) The business entity has not committed any act that is a ground for denial, suspension, or revocation set forth in RCW 48.17.530.

(4) A resident business entity acting as a title insurance agent is required to obtain a title insurance agent license. Application shall be made to the commissioner on the uniform business entity application, and the individual submitting the application shall declare under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the commissioner shall find that the business entity:

(a) Has paid the fees set forth in RCW 48.14.010;

(b) Maintains a lawfully established place of business in this state;

(c) Is empowered to be a title insurance agent under a members' agreement, if a limited liability company, or by its articles of incorporation;

(d) Is appointed as an agent by one or more authorized title insurance companies; and

(e) Has complied with RCW 48.29.155 and 48.29.160.

(5) The commissioner may require any documents reasonably necessary to verify the information contained in an application and may, from time to time, require any licensed insurance producer or title insurance agent to produce the information called for in an application for license.

Passed by the House February 27, 2023.
Passed by the Senate March 22, 2023.
Approved by the Governor April 6, 2023.
Filed in Office of Secretary of State April 6, 2023.

CHAPTER 22

[Substitute House Bill 1070]

PROPERTY SALE AND LEASEBACK—RESIDENTIAL LANDLORD-TENANT ACT

AN ACT Relating to exempting the sale and leaseback of property by a seller from the residential landlord-tenant act when the seller agrees to a written lease at closing; and amending RCW 59.18.040.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 59.18.040 and 1989 c 342 s 3 are each amended to read as follows:

The following living arrangements are not intended to be governed by the provisions of this chapter, unless established primarily to avoid its application, in which event the provisions of this chapter shall control:

(1) Residence at an institution, whether public or private, where residence is merely incidental to detention or the provision of medical, religious, educational, recreational, or similar services((,)) including, but not limited to, correctional facilities, licensed nursing homes, monasteries and convents, and hospitals;

(2) Occupancy under a bona fide earnest money agreement to purchase or contract of sale of the dwelling unit or the property of which it is a part, where the tenant is, or stands in the place of, the purchaser;

(3) Occupancy under a written rental agreement entered into by a seller and buyer of a dwelling unit, for the seller to retain possession of the dwelling unit after closing of the sale of the dwelling unit, if the conditions in (a) through (c) of this subsection are satisfied.

(a) The rental agreement permits the seller to remain in the dwelling unit for no more than three months after closing, and the buyer does not accept any rent payments from the seller after three months from closing;

(b) At the time of closing of the sale, the dwelling unit was not a distressed home as defined in chapter 61.34 RCW; and

(c) During negotiation of the purchase agreement or at the time of closing of the sale, the seller was represented by an attorney licensed to practice law in this state or by a real estate broker or managing broker licensed under chapter 18.85 RCW;

(4) Residence in a hotel, motel, or other transient lodging whose operation is defined in RCW 19.48.010;

(((~~(4)~~))) (5) Rental agreements entered into pursuant to the provisions of chapter 47.12 RCW where occupancy is by an owner-condemnee and where such agreement does not violate the public policy of this state of ensuring decent, safe, and sanitary housing and is so certified by the consumer protection division of the attorney general's office;

(((~~(5)~~))) (6) Rental agreements for the use of any single-family residence ((~~which~~)) that are incidental to leases or rentals entered into in connection with a lease of land to be used primarily for agricultural purposes;

(((~~(6)~~))) (7) Rental agreements providing housing for seasonal agricultural employees while provided in conjunction with such employment;

(((~~(7)~~))) (8) Rental agreements with the state of Washington, department of natural resources, on public lands governed by Title 79 RCW;

(((~~(8)~~))) (9) Occupancy by an employee of a landlord whose right to occupy is conditioned upon employment in or about the premises.

Passed by the House January 25, 2023.
Passed by the Senate March 22, 2023.
Approved by the Governor April 6, 2023.
Filed in Office of Secretary of State April 6, 2023.

CHAPTER 23

[Substitute House Bill 1101]

COMMON INTEREST COMMUNITIES—TENANT SCREENING

AN ACT Relating to tenant screening in common interest communities; adding a new section to chapter 64.32 RCW; adding a new section to chapter 64.34 RCW; adding a new section to chapter 64.38 RCW; and adding a new section to chapter 64.90 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 64.32 RCW to read as follows:

(1) Except as otherwise prohibited by law, and subject to the limitations in subsection (2) of this section, an association of apartment owners may:

(a) Require any apartment owner intending to lease the owner's apartment to use a tenant screening service or obtain background information, including criminal history, on a prospective tenant, at the owner's sole cost and expense, prior to the owner entering into a lease agreement with a prospective tenant; and

(b) Require proof that the tenant screening requirement has been fulfilled or that the background information on a prospective tenant has been obtained by the owner intending to lease the owner's apartment.

(2) An association may not require that a copy of the tenant screening report or any background information pertaining to a tenant be furnished to the association.

NEW SECTION. **Sec. 2.** A new section is added to chapter 64.34 RCW to read as follows:

(1) Except as otherwise prohibited by law, and subject to the limitations in subsection (2) of this section, a unit owners' association may:

(a) Require any unit owner intending to lease the owner's unit to use a tenant screening service or obtain background information, including criminal history, on a prospective tenant, at the owner's sole cost and expense, prior to the owner entering into a lease agreement with a prospective tenant; and

(b) Require proof that the tenant screening requirement has been fulfilled or that the background information on a prospective tenant has been obtained by the owner intending to lease the owner's unit.

(2) An association may not require that a copy of the tenant screening report or any background information pertaining to a tenant be furnished to the association.

NEW SECTION. **Sec. 3.** A new section is added to chapter 64.38 RCW to read as follows:

(1) Except as otherwise prohibited by law, and subject to the limitations in subsection (2) of this section, a homeowners' association may:

(a) Require any lot owner intending to lease the owner's lot to use a tenant screening service or obtain background information, including criminal history, on a prospective tenant, at the owner's sole cost and expense, prior to the owner entering into a lease agreement with a prospective tenant; and

(b) Require proof that the tenant screening requirement has been fulfilled or that the background information on a prospective tenant has been obtained by the owner intending to lease the owner's lot.

(2) An association may not require that a copy of the tenant screening report or any background information pertaining to a tenant be furnished to the association.

NEW SECTION. **Sec. 4.** A new section is added to chapter 64.90 RCW to read as follows:

(1) Except as otherwise prohibited by law, and subject to the limitations in subsection (2) of this section, a unit owners association may:

(a) Require any unit owner intending to lease the owner's unit to use a tenant screening service or obtain background information, including criminal history,

on a prospective tenant, at the owner's sole cost and expense, prior to the owner entering into a lease agreement with a prospective tenant; and

(b) Require proof that the tenant screening requirement has been fulfilled or that the background information on a prospective tenant has been obtained by the owner intending to lease the owner's unit.

(2) An association may not require that a copy of the tenant screening report or any background information pertaining to a tenant be furnished to the association.

Passed by the House January 26, 2023.
Passed by the Senate March 22, 2023.
Approved by the Governor April 6, 2023.
Filed in Office of Secretary of State April 6, 2023.

CHAPTER 24

[House Bill 1102]

JUDGE PRO TEMPORE COMPENSATION

AN ACT Relating to judge pro tempore compensation; and amending RCW 2.08.180.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 2.08.180 and 2005 c 142 s 1 are each amended to read as follows:

A case in the superior court of any county may be tried by a judge pro tempore, who must be either: (1) A member of the bar, agreed upon in writing by the parties litigant, or their attorneys of record, approved by the court, and sworn to try the case; or (2) pursuant to supreme court rule, any sitting elected judge. Any action in the trial of such cause shall have the same effect as if it was made by a judge of such court. However, if a previously elected judge of the superior court retires leaving a pending case in which the judge has made discretionary rulings, the judge is entitled to hear the pending case as a judge pro tempore without any written agreement.

A judge pro tempore shall, before entering upon his or her duties in any cause, take and subscribe the following oath or affirmation:

"I do solemnly swear (or affirm, as the case may be,) that I will support the Constitution of the United States and the Constitution of the State of Washington, and that I will faithfully discharge the duties of the office of judge pro tempore in the cause wherein . . . . . is plaintiff and . . . . . defendant, according to the best of my ability."

A judge pro tempore who is a practicing attorney ((~~and who is not a retired justice of the supreme court or judge of a superior court of the state of Washington,~~)) or who is ((~~not an active~~)) a retired judge of a court of the state of Washington, shall receive a compensation of one-two hundred fiftieth of the annual salary of a superior court judge for each day engaged in said trial, to be paid in the same manner as the salary of the superior judge. A judge who is an active full-time judge of a court of the state of Washington shall receive no compensation as judge pro tempore. A judge who is an active part-time judge of a court of the state of Washington may receive compensation as a judge pro tempore only when sitting as a judge pro tempore during time for which he or she is not compensated as a part-time judge. ((~~A justice or judge who has retired~~

~~from the supreme court, court of appeals, or superior court of the state of Washington shall receive compensation as judge pro tempore in the amount of sixty percent of the amount payable to a judge pro tempore under this section, provided that a~~)) A retired justice or judge may decline to accept compensation.

Passed by the House January 25, 2023.
Passed by the Senate March 22, 2023.
Approved by the Governor April 6, 2023.
Filed in Office of Secretary of State April 6, 2023.

CHAPTER 25

[House Bill 1107]

EMPLOYMENT RELATIONSHIP—TERMINOLOGY

AN ACT Relating to removing the terms "master" and "servant" from Titles 50 and 50A RCW; amending RCW 50.04.100 and 50A.05.010; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 50.04.100 and 1982 1st ex.s. c 18 s 14 are each amended to read as follows:

"Employment," subject only to the other provisions of this title, means personal service, of whatever nature, unlimited by ((~~the relationship of master and servant~~)) any employment relationship as known to the common law or any other legal relationship, including service in interstate commerce, performed for wages or under any contract calling for the performance of personal services, written or oral, express or implied.

Except as provided by RCW 50.04.145, personal services performed for an employing unit by one or more contractors or subcontractors acting individually or as a partnership, which do not meet the provisions of RCW 50.04.140, shall be considered employment of the employing unit: PROVIDED, HOWEVER, That such contractor or subcontractor shall be an employer under the provisions of this title in respect to personal services performed by individuals for such contractor or subcontractor.

Sec. 2. RCW 50A.05.010 and 2022 c 233 s 1 are each amended to read as follows:

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

(1)(a) "Casual labor" means work that:

(i) Is performed infrequently and irregularly; and

(ii) If performed for an employer, does not promote or advance the employer's customary trade or business.

(b) For purposes of casual labor:

(i) "Infrequently" means work performed twelve or fewer times per calendar quarter; and

(ii) "Irregularly" means work performed not on a consistent cadence.

(2) "Child" includes a biological, adopted, or foster child, a stepchild, a child's spouse, or a child to whom the employee stands in loco parentis, is a legal guardian, or is a de facto parent, regardless of age or dependency status.

(3) "Commissioner" means the commissioner of the department or the commissioner's designee.

(4) "Department" means the employment security department.

(5)(a) "Employee" means an individual who is in the employment of an employer.

(b) "Employee" does not include employees of the United States of America.

(6) "Employee's average weekly wage" means the quotient derived by dividing the employee's total wages during the two quarters of the employee's qualifying period in which total wages were highest by twenty-six. If the result is not a multiple of one dollar, the department must round the result to the next lower multiple of one dollar.

(7)(a) "Employer" means: (i) Any individual or type of organization, including any partnership, association, trust, estate, joint stock company, insurance company, limited liability company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee, or the legal representative of a deceased person, having any person in employment or, having become an employer, has not ceased to be an employer as provided in this title; (ii) the state, state institutions, and state agencies; and (iii) any unit of local government including, but not limited to, a county, city, town, municipal corporation, quasi-municipal corporation, or political subdivision.

(b) "Employer" does not include the United States of America.

(8)(a) "Employment" means personal service, of whatever nature, unlimited by ((~~the relationship of master and servant~~)) any employment relationship as known to the common law or any other legal relationship performed for wages or under any contract calling for the performance of personal services, written or oral, express or implied. The term "employment" includes an individual's entire service performed within or without or both within and without this state, if:

(i) The service is localized in this state; or

(ii) The service is not localized in any state, but some of the service is performed in this state; and

(A) The base of operations of the employee is in the state, or if there is no base of operations, then the place from which such service is directed or controlled is in this state; or

(B) The base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(b) "Employment" does not include:

(i) Self-employed individuals;

(ii) Casual labor;

(iii) Services for remuneration when it is shown to the satisfaction of the commissioner that:

(A)(I) Such individual has been and will continue to be free from control or direction over the performance of such service, both under his or her contract of service and in fact; and

(II) Such service is either outside the usual course of business for which such service is performed, or that such service is performed outside of all the places of business of the enterprises for which such service is performed; and

(III) Such individual is customarily engaged in an independently established trade, occupation, profession, or business, of the same nature as that involved in the contract of service; or

(B) As a separate alternative:

(I) Such individual has been and will continue to be free from control or direction over the performance of such service, both under his or her contract of service and in fact; and

(II) Such service is either outside the usual course of business for which such service is performed, or that such service is performed outside of all the places of business of the enterprises for which such service is performed, or the individual is responsible, both under the contract and in fact, for the costs of the principal place of business from which the service is performed; and

(III) Such individual is customarily engaged in an independently established trade, occupation, profession, or business, of the same nature as that involved in the contract of service, or such individual has a principal place of business for the work the individual is conducting that is eligible for a business deduction for federal income tax purposes; and

(IV) On the effective date of the contract of service, such individual is responsible for filing at the next applicable filing period, both under the contract of service and in fact, a schedule of expenses with the internal revenue service for the type of business the individual is conducting; and

(V) On the effective date of the contract of service, or within a reasonable period after the effective date of the contract, such individual has established an account with the department of revenue, and other state agencies as required by the particular case, for the business the individual is conducting for the payment of all state taxes normally paid by employers and businesses and has registered for and received a unified business identifier number from the state of Washington; and

(VI) On the effective date of the contract of service, such individual is maintaining a separate set of books or records that reflect all items of income and expenses of the business which the individual is conducting; or

(iv) Services that require registration under chapter 18.27 RCW or licensing under chapter 19.28 RCW rendered by an individual when:

(A) The individual has been and will continue to be free from control or direction over the performance of the service, both under the contract of service and in fact;

(B) The service is either outside the usual course of business for which the service is performed, or the service is performed outside of all the places of business of the enterprise for which the service is performed, or the individual is responsible, both under the contract and in fact, for the costs of the principal place of business from which the service is performed;

(C) The individual is customarily engaged in an independently established trade, occupation, profession, or business, of the same nature as that involved in the contract of service, or the individual has a principal place of business for the business the individual is conducting that is eligible for a business deduction for federal income tax purposes, other than that furnished by the employer for which the business has contracted to furnish services;

(D) On the effective date of the contract of service, the individual is responsible for filing at the next applicable filing period, both under the contract of service and in fact, a schedule of expenses with the internal revenue service for the type of business the individual is conducting;

(E) On the effective date of the contract of service, or within a reasonable period after the effective date of the contract, the individual has an active and valid certificate of registration with the department of revenue, and an active and valid account with any other state agencies as required by the particular case, for the business the individual is conducting for the payment of all state taxes normally paid by employers and businesses and has registered for and received a unified business identifier number from the state of Washington;

(F) On the effective date of the contract of service, the individual is maintaining a separate set of books or records that reflect all items of income and expenses of the business that the individual is conducting; and

(G) On the effective date of the contract of service, the individual has a valid contractor registration pursuant to chapter 18.27 RCW or an electrical contractor license pursuant to chapter 19.28 RCW.

(9) "Employment benefits" means all benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions.

(10) "Family leave" means any leave taken by an employee from work:

(a) To participate in providing care, including physical or psychological care, for a family member of the employee made necessary by a serious health condition of the family member;

(b) To bond with the employee's child during the first twelve months after the child's birth, or the first twelve months after the placement of a child under the age of eighteen with the employee;

(c) Because of any qualifying exigency as permitted under the federal family and medical leave act, 29 U.S.C. Sec. 2612(a)(1)(E) and 29 C.F.R. Sec. 825.126(b)(1) through (9), as they existed on October 19, 2017, for family members as defined in subsection (11) of this section; or

(d) During the seven calendar days following the death of the family member for whom the employee:

(i) Would have qualified for medical leave under subsection (15) of this section for the birth of their child; or

(ii) Would have qualified for family leave under (b) of this subsection.

(11) "Family member" means a child, grandchild, grandparent, parent, sibling, or spouse of an employee, and also includes any individual who regularly resides in the employee's home or where the relationship creates an expectation that the employee care for the person, and that individual depends on the employee for care. "Family member" includes any individual who regularly resides in the employee's home, except that it does not include an individual who simply resides in the same home with no expectation that the employee care for the individual.

(12) "Grandchild" means a child of the employee's child.

(13) "Grandparent" means a parent of the employee's parent.

(14) "Health care provider" means: (a) A person licensed as a physician under chapter 18.71 RCW or an osteopathic physician and surgeon under chapter 18.57 RCW; (b) a person licensed as an advanced registered nurse practitioner under chapter 18.79 RCW; or (c) any other person determined by the commissioner to be capable of providing health care services.

(15) "Medical leave" means any leave taken by an employee from work made necessary by the employee's own serious health condition.

(16) "Paid time off" includes vacation leave, personal leave, medical leave, sick leave, compensatory leave, or any other paid leave offered by an employer under the employer's established policy.

(17) "Parent" means the biological, adoptive, de facto, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse, or an individual who stood in loco parentis to an employee when the employee was a child.

(18) "Period of incapacity" means an inability to work, attend school, or perform other regular daily activities because of a serious health condition, treatment of that condition or recovery from it, or subsequent treatment in connection with such inpatient care.

(19) "Postnatal" means the first six weeks after birth.

(20) "Premium" or "premiums" means the payments required by RCW 50A.10.030 and paid to the department for deposit in the family and medical leave insurance account under RCW 50A.05.070.

(21) "Qualifying period" means the first four of the last five completed calendar quarters or, if eligibility is not established, the last four completed calendar quarters immediately preceding the application for leave.

(22)(a) "Remuneration" means all compensation paid for personal services including commissions and bonuses and the cash value of all compensation paid in any medium other than cash.

(b) Previously accrued compensation, other than severance pay or payments received pursuant to plant closure agreements, when assigned to a specific period of time by virtue of a collective bargaining agreement, individual employment contract, customary trade practice, or request of the individual compensated, is considered remuneration for the period to which it is assigned. Assignment clearly occurs when the compensation serves to make the individual eligible for all regular fringe benefits for the period to which the compensation is assigned.

(c) Remuneration also includes settlements or other proceeds received by an individual as a result of a negotiated settlement for termination of an individual written employment contract prior to its expiration date. The proceeds are deemed assigned in the same intervals and in the same amount for each interval as compensation was allocated under the contract.

(d) Remuneration does not include:

(i) The payment of tips;

(ii) Supplemental benefit payments made by an employer to an employee in addition to any paid family or medical leave benefits received by the employee; or

(iii) Payments to members of the armed forces of the United States, including the organized militia of the state of Washington, for the performance of duty for periods not exceeding seventy-two hours at a time.

(23)(a) "Serious health condition" means an illness, injury, impairment, or physical or mental condition that involves:

(i) Inpatient care in a hospital, hospice, or residential medical care facility, including any period of incapacity; or

(ii) Continuing treatment by a health care provider. A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:

(A) A period of incapacity of more than three consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:

(I) Treatment two or more times, within thirty days of the first day of incapacity, unless extenuating circumstances exist, by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services, such as a physical therapist, under orders of, or on referral by, a health care provider; or

(II) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider;

(B) Any period of incapacity due to pregnancy, or for prenatal care;

(C) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

(I) Requires periodic visits, defined as at least twice a year, for treatment by a health care provider, or by a nurse under direct supervision of a health care provider;

(II) Continues over an extended period of time, including recurring episodes of a single underlying condition; and

(III) May cause episodic rather than a continuing period of incapacity, including asthma, diabetes, and epilepsy;

(D) A period of incapacity which is permanent or long term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider, including Alzheimer's, a severe stroke, or the terminal stages of a disease; or

(E) Any period of absence to receive multiple treatments, including any period of recovery from the treatments, by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for: (I) Restorative surgery after an accident or other injury; or (II) a condition that would likely result in a period of incapacity of more than three consecutive, full calendar days in the absence of medical intervention or treatment, such as cancer, severe arthritis, or kidney disease.

(b) The requirement in (a)(i) and (ii) of this subsection for treatment by a health care provider means an in-person visit to a health care provider. The first, or only, in-person treatment visit must take place within seven days of the first day of incapacity.

(c) Whether additional treatment visits or a regimen of continuing treatment is necessary within the thirty-day period shall be determined by the health care provider.

(d) The term extenuating circumstances in (a)(ii)(A)(I) of this subsection means circumstances beyond the employee's control that prevent the follow-up visit from occurring as planned by the health care provider. Whether a given set of circumstances are extenuating depends on the facts. For example, extenuating circumstances exist if a health care provider determines that a second in-person visit is needed within the thirty-day period, but the health care provider does not have any available appointments during that time period.

(e) Treatment for purposes of (a) of this subsection includes, but is not limited to, examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations. Under (a)(ii)(A)(II) of this subsection, a regimen of continuing treatment includes, but is not limited to, a course of prescription medication, such as an antibiotic, or therapy requiring special equipment to resolve or alleviate the health condition, such as oxygen. A regimen of continuing treatment that includes taking over-the-counter medications, such as aspirin, antihistamines, or salves, or bed rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider, is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of this title.

(f) Conditions for which cosmetic treatments are administered, such as most treatments for acne or plastic surgery, are not serious health conditions unless inpatient hospital care is required or unless complications develop. Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraines, routine dental or orthodontia problems, and periodontal disease are examples of conditions that are not serious health conditions and do not qualify for leave under this title. Restorative dental or plastic surgery after an injury or removal of cancerous growths are serious health conditions provided all the other conditions of this section are met. Mental illness resulting from stress or allergies may be serious health conditions, but only if all the conditions of this section are met.

(g)(i) Substance abuse may be a serious health condition if the conditions of this section are met. However, leave may only be taken for treatment for substance abuse by a health care provider or by a licensed substance abuse treatment provider. Absence because of the employee's use of the substance, rather than for treatment, does not qualify for leave under this title.

(ii) Treatment for substance abuse does not prevent an employer from taking employment action against an employee. The employer may not take action against the employee because the employee has exercised his or her right to take medical leave for treatment. However, if the employer has an established policy, applied in a nondiscriminatory manner that has been communicated to all employees, that provides under certain circumstances an employee may be terminated for substance abuse, pursuant to that policy the employee may be terminated whether or not the employee is presently taking medical leave. An employee may also take family leave to care for a covered family member who is receiving treatment for substance abuse. The employer may not take action against an employee who is providing care for a covered family member receiving treatment for substance abuse.

(h) Absences attributable to incapacity under (a)(ii)(B) or (C) of this subsection qualify for leave under this title even though the employee or the family member does not receive treatment from a health care provider during the absence, and even if the absence does not last more than three consecutive, full calendar days. For example, an employee with asthma may be unable to report for work due to the onset of an asthma attack or because the employee's health care provider has advised the employee to stay home when the pollen count exceeds a certain level. An employee who is pregnant may be unable to report to work because of severe morning sickness.

(24) "Service is localized in this state" has the same meaning as described in RCW 50.04.120.

(25) "Spouse" means a husband or wife, as the case may be, or state registered domestic partner.

(26) "State average weekly wage" means the most recent average weekly wage calculated under RCW 50.04.355 and available on January 1st of each year.

(27) "Supplemental benefit payments" means payments made by an employer to an employee as salary continuation or as paid time off. Such payments must be in addition to any paid family or medical leave benefits the employee is receiving.

(28) "Typical workweek hours" means:

(a) For an hourly employee, the average number of hours worked per week by an employee within the qualifying period; and

(b) Forty hours for a salaried employee, regardless of the number of hours the salaried employee typically works.

(29) "Wage" or "wages" means:

(a) For the purpose of premium assessment, the remuneration paid by an employer to an employee. The maximum wages subject to a premium assessment are those wages as set by the commissioner under RCW 50A.10.030;

(b) For the purpose of payment of benefits, the remuneration paid by one or more employers to an employee for employment during the employee's qualifying period. At the request of an employee, wages may be calculated on the basis of remuneration payable. The department shall notify each employee that wages are calculated on the basis of remuneration paid, but at the employee's request a redetermination may be performed and based on remuneration payable; and

(c) For the purpose of a self-employed person electing coverage under RCW 50A.10.010, the meaning is defined by rule.

NEW SECTION. **Sec. 3.** In enacting this act, the legislature only intends to amend the Revised Code of Washington to use inclusive language. The legislature does not intend to either increase or reduce the scope of the definitions of "employment" contained in Title 50 or 50A RCW.

Passed by the House February 1, 2023.
Passed by the Senate March 22, 2023.
Approved by the Governor April 6, 2023.
Filed in Office of Secretary of State April 6, 2023.

CHAPTER 26

[House Bill 1179]

CRIMINAL HISTORY DATA—STATE AUDITOR ACCESS

AN ACT Relating to authorizing the state auditor to receive nonconviction data; and amending RCW 10.97.050 and 43.101.460.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 10.97.050 and 2020 c 184 s 2 are each amended to read as follows:

(1) Conviction records may be disseminated without restriction.

(2) Any criminal history record information which pertains to an incident that occurred within the last twelve months for which a person is currently being processed by the criminal justice system, including the entire period of correctional supervision extending through final discharge from parole, when applicable, may be disseminated without restriction.

(3) Criminal history record information which includes nonconviction data may be disseminated by a criminal justice agency to another criminal justice agency for any purpose associated with the administration of criminal justice, or in connection with the employment of the subject of the record by a criminal justice or juvenile justice agency, except as provided under RCW 13.50.260. A criminal justice agency may respond to any inquiry from another criminal justice agency without any obligation to ascertain the purpose for which the information is to be used by the agency making the inquiry.

(4) Criminal history record information which includes nonconviction data may be disseminated by a criminal justice agency to implement a statute, ordinance, executive order, or a court rule, decision, or order which expressly refers to records of arrest, charges, or allegations of criminal conduct or other nonconviction data and authorizes or directs that it be available or accessible for a specific purpose.

(5) Criminal history record information which includes nonconviction data may be disseminated to individuals and agencies pursuant to a contract with a criminal justice agency to provide services related to the administration of criminal justice. Such contract must specifically authorize access to criminal history record information, but need not specifically state that access to nonconviction data is included. The agreement must limit the use of the criminal history record information to stated purposes and insure the confidentiality and security of the information consistent with state law and any applicable federal statutes and regulations.

(6) Criminal history record information which includes nonconviction data may be disseminated to individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency. Such agreement must authorize the access to nonconviction data, limit the use of that information which identifies specific individuals to research, evaluative, or statistical purposes, and contain provisions giving notice to the person or organization to which the records are disseminated that the use of information obtained therefrom and further dissemination of such information are subject to the provisions of this chapter and applicable federal statutes and regulations, which shall be cited with express reference to the penalties provided for a violation thereof.

(7) Criminal history record information that includes nonconviction data may be disseminated to the state auditor solely for the express purpose of conducting a process compliance audit procedure and review of any deadly force investigation pursuant to RCW 43.101.460. Dissemination or use of nonconviction data for purposes other than authorized in this subsection is prohibited.

(8) Every criminal justice agency that maintains and disseminates criminal history record information must maintain information pertaining to every dissemination of criminal history record information except a dissemination to

the effect that the agency has no record concerning an individual. Information pertaining to disseminations shall include:

(a) An indication of to whom (agency or person) criminal history record information was disseminated;

(b) The date on which the information was disseminated;

(c) The individual to whom the information relates; and

(d) A brief description of the information disseminated.

The information pertaining to dissemination required to be maintained shall be retained for a period of not less than one year.

((~~(8)~~)) (9) In addition to the other provisions in this section allowing dissemination of criminal history record information, RCW 4.24.550 governs dissemination of information concerning offenders who commit sex offenses as defined by RCW 9.94A.030. Criminal justice agencies, their employees, and officials shall be immune from civil liability for dissemination on criminal history record information concerning sex offenders as provided in RCW 4.24.550.

Sec. 2. RCW 43.101.460 and 2021 c 319 s 1 are each amended to read as follows:

(1) The office of the Washington state auditor is authorized to conduct a process compliance audit procedure and review of any deadly force investigation conducted pursuant to RCW 10.114.011. At the conclusion of every deadly force investigation, the state auditor shall determine whether the actions of the involved law enforcement agency, investigative body, and prosecutor's office are in compliance with RCW 10.114.011, chapter 43.102 RCW, and all rules adopted pursuant to these provisions for the investigation and reporting of incidents involving the use of deadly force. A deadly force investigation is concluded once the involved prosecutor's office makes a charging decision and any resulting criminal case reaches disposition. Audit procedures under this section shall be conducted in cooperation with the commission.

(2) The state auditor is authorized to access records of arrest, charges, or allegations of criminal conduct or other nonconviction data for the purposes of conducting reviews of any deadly force investigation authorized by this section.

(3) The state auditor may not conduct an audit under this section until adequately staffed with subject matter expertise regarding law enforcement and investigative audits. Until that time, the state auditor shall contract with persons with the appropriate subject matter expertise and shall issue a request for proposal for contracting with a person or entity to provide adequate subject matter expertise.

Passed by the House January 26, 2023.
Passed by the Senate March 22, 2023.
Approved by the Governor April 6, 2023.
Filed in Office of Secretary of State April 6, 2023.

CHAPTER 27

[Substitute House Bill 1266]

INSURANCE COMMISSIONER—USE OF EMAIL

AN ACT Relating to the use of email by the office of the insurance commissioner when communicating with licensees; amending RCW 48.17.170, 48.17.450, 48.17.475, and 48.15.103;

adding a new section to chapter 48.02 RCW; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 48.17.170 and 2012 c 154 s 5 are each amended to read as follows:

(1) Unless denied licensure under RCW 48.17.530, persons who have met the requirements of RCW 48.17.090 and 48.17.110 shall be issued an insurance producer license. An insurance producer may receive a license in one or more of the following lines of authority:

(a) "Life," which is insurance coverage on human lives, including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income;

(b) "Disability," which is insurance coverage for accident, health, and disability or sickness, bodily injury, or accidental death, and may include benefits for disability income;

(c) "Property," which is insurance coverage for the direct or consequential loss or damage to property of every kind;

(d) "Casualty," which is insurance coverage against legal liability, including that for death, injury, or disability or damage to real or personal property;

(e) "Variable life and variable annuity products," which is insurance coverage provided under variable life insurance contracts, variable annuities, or any other life insurance or annuity product that reflects the investment experience of a separate account;

(f) "Personal lines," which is property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes;

(g) Limited lines:

(i) Surety;

(ii) Limited line credit insurance;

(iii) Travel;

(h) Specialty lines:

(i) Portable electronics;

(ii) Rental car;

(iii) Self-service storage; or

(i) Any other line of insurance permitted under state laws or rules.

(2) Unless denied licensure under RCW 48.17.530, persons who have met the requirements of RCW 48.17.090(4) shall be issued a title insurance agent license.

(3) All insurance producers', title insurance agents', and adjusters' licenses issued by the commissioner shall be valid for the time period established by the commissioner unless suspended or revoked at an earlier date.

(4) Subject to the right of the commissioner to suspend, revoke, or refuse to renew any insurance producer's, title insurance agent's, or adjuster's license as provided in this title, the license may be renewed into another like period by filing with the commissioner by any means acceptable to the commissioner on or before the expiration date a request, by or on behalf of the licensee, for such renewal accompanied by payment of the renewal fee as specified in RCW 48.14.010.

(5) If the request and fee for renewal of an insurance producer's, title insurance agent's, or adjuster's license are filed with the commissioner prior to

expiration of the existing license, the licensee may continue to act under such license, unless sooner revoked or suspended, until the issuance of a renewal license, or until the expiration of ((~~fifteen~~)) 15 days after the commissioner has refused to renew the license and has mailed notification of such refusal to the licensee. If the request and fee for the license renewal are not received by the expiration date, the authority conferred by the license ends on the expiration date.

(6) If the request for renewal of an insurance producer's, title insurance agent's, or adjuster's license and payment of the fee are not received by the commissioner prior to the expiration date, the applicant for renewal shall pay to the commissioner, in addition to the renewal fee, a surcharge as follows:

(a) For the first ((~~thirty~~)) 30 days or part thereof of delinquency, the surcharge is ((~~fifty~~)) 50 percent of the renewal fee;

(b) For the next ((~~thirty~~)) 30 days or part thereof of delinquency, the surcharge is ((~~one hundred~~)) 100 percent of the renewal fee.

(7) If the request for renewal of an insurance producer's, title insurance agent's, or adjuster's license and fee for the renewal are received by the commissioner after ((~~sixty~~)) 60 days but prior to ((~~twelve~~)) 12 months after the expiration date, the application is for reinstatement of the license and the applicant for reinstatement must pay to the commissioner the license fee and a surcharge of ((~~two hundred~~)) 200 percent of the license fee.

(8) Subsections (6) and (7) of this section do not exempt any person from any penalty provided by law for transacting business without a valid and subsisting license or appointment.

(9) An individual insurance producer, title insurance agent, or adjuster who allows his or her license to lapse may, within ((~~twelve~~)) 12 months after the expiration date, reinstate the same license without the necessity of passing a written examination.

(10) A licensed insurance producer who is unable to comply with license renewal procedures due to military service or some other extenuating circumstance such as a long-term medical disability, may request a waiver of those procedures. The producer may also request a waiver of any examination requirement or any other fine or sanction imposed for failure to comply with renewal procedures.

(11) The license shall contain the licensee's name, address, personal identification number, and the date of issuance, lines of authority, expiration date, and any other information the commissioner deems necessary.

(12) Licensees shall inform the commissioner by any means acceptable to the commissioner of a change of address and email address within ((~~thirty~~)) 30 days of the change. Failure to timely inform the commissioner of a change in legal name ((~~or~~)), address, or email address, may result in a penalty under either RCW 48.17.530 or 48.17.560, or both.

Sec. 2. RCW 48.17.450 and 2007 c 117 s 22 are each amended to read as follows:

(1) Every licensed insurance producer, title insurance agent, and adjuster, other than an insurance producer licensed for life or disability insurances only, shall have and maintain in this state, or, if a nonresident insurance producer or title insurance agent, in this state or in the state of the licensee's domicile, a place of business accessible to the public. Such place of business shall be that wherein

the insurance producer or title insurance agent principally conducts transactions under that person's licenses. A licensee maintaining more than one place of business in this state shall obtain a duplicate license or licenses for each additional such place, and shall pay the full fee therefor.

(2) Any notice, order, or written communication, including any notification of investigation; notification of audit and findings resulting from such audit; or written communication from the commissioner under RCW 48.17.475(2)(c)(ii), from the commissioner to a person licensed under this chapter which directly affects the person's license shall be sent by mail to the person's last address of record with the commissioner.

(3) Every insurance producer, title insurance agent, adjuster, and other person licensed under this chapter shall provide the commissioner with a current email address. The commissioner may send a written communication by email to a licensee's last email address of record with the commissioner if:

(a) The communication is not required to be sent to the person's mailing address pursuant to subsection (2) of this section;

(b) The person has affirmatively consented to receive communications from the commissioner by email; and

(c)(i) The email from the commissioner does not require a response; or

(ii) If a response is required, the requirements under RCW 48.17.475(2)(b) are met prior to the commissioner sending the email.

(4) Email communication sent to an applicant prior to the issuance of a license, and auto-generated system emails regarding a license application or license renewal processes, are excluded from the requirements of subsection (3) of this section.

Sec. 3. RCW 48.17.475 and 2007 c 117 s 25 are each amended to read as follows:

(1) Every insurance producer, title insurance agent, adjuster, or other person licensed under this chapter shall ((~~promptly reply~~)) timely respond in writing to an inquiry of the commissioner sent to a person's mailing address relative to the business of insurance. A timely response is one that is received by the commissioner within ((~~fifteen~~)) 15 business days from receipt of the inquiry. Failure to make a timely response constitutes a violation of this section and may result in a penalty under either RCW 48.17.530 or 48.17.560, or both.

(2)(a) Every insurance producer, title insurance agent, adjuster, and other person licensed under this chapter shall timely respond in writing to an inquiry of the commissioner sent to a person's email address relative to the business of insurance. A timely response is one that is received by the commissioner within 15 business days from receipt of the inquiry. Failure to make a timely response constitutes a violation of this subsection if the requirements under (c) of this subsection are met.

(b)(i) When an email from the commissioner requires a response, the commissioner shall:

(A) Send no fewer than two separate emails with a subject line stating "Response Required"; and

(B) Prominently display in large font type in the body of each email the following: "FAILURE TO TIMELY RESPOND TO THIS EMAIL IS A VIOLATION OF RCW 48.17.475 AND IS SUBJECT TO PENALTIES UNDER RCW 48.17.530 AND 48.17.560 INCLUDING FINES AND

LICENSE REVOCATION. A TIMELY RESPONSE IS ONE RECEIVED BY THE COMMISSIONER WITHIN 15 BUSINESS DAYS OF YOUR RECEIPT OF THIS INQUIRY."

(ii) If the commissioner sends an inquiry by email and is notified that the email is undeliverable, the commissioner shall resend the notice once by mail to the person's last known address on record with the commissioner.

(c) A person is in violation of this subsection only if: (i) The commissioner complies with the requirements under (b) of this subsection; (ii) the commissioner sends a third and final written inquiry by certified mail to the person's last mailing address registered with the commissioner that follows the requirements of (b)(i)(B) of this subsection; and (iii) the commissioner fails to receive a response within 15 business days of the licensee's receipt of the inquiry.

Sec. 4. RCW 48.15.103 and 2009 c 162 s 6 are each amended to read as follows:

(1) A surplus line broker doing business under any name other than the surplus line broker's legal name is required to register the name in accordance with chapter 19.80 RCW and notify the commissioner before using the assumed name.

(2) Every licensed surplus line broker shall have and maintain in this state, or, if a nonresident surplus line broker, in this state or in the state of the licensee's domicile, a place of business accessible to the public. The place of business is where the surplus line broker principally conducts transactions under that person's license. A licensee maintaining more than one place of business in this state shall obtain a duplicate license or licenses for each additional place, and shall pay the full fee therefor.

(3) Every licensed surplus line broker and other person licensed under this chapter shall provide the commissioner with a current email address and update the commissioner within 30 days of any change in email address. The commissioner may send a written communication by email to a licensee's last email address of record with the commissioner if:

(a) The communication is not required to be sent to the person's mailing address pursuant to subsection (4) of this section;

(b) The person has affirmatively consented to receive communications from the commissioner by email; and

(c)(i) The email from the commissioner does not require a response; or

(ii) If a response is required, the requirements under subsection (8)(b) of this section are met prior to the commissioner sending the email.

(4) Any notice, order, or written communication, including any notification of investigation; notification of audit and findings resulting from such audit; or written communication from the commissioner under subsection (8)(c)(ii) of this section, from the commissioner to a person licensed under this chapter which directly affects the person's license shall be sent by mail to the person's last address of record with the commissioner.

(((~~(4)~~))) (5) The license or licenses of each surplus line broker shall be displayed in a conspicuous place in that part of the place of business which is customarily open to the public.

((~~(5)~~)) (6) If a surplus line broker is dealing directly with the insured in any capacity, the surplus line broker must comply with the disclosure requirements contained in RCW 48.17.270.

((~~(6)~~)) (7) Every surplus line broker or other person licensed under this chapter shall ((~~promptly reply~~)) timely respond in writing to an inquiry of the commissioner sent to the person's mailing address relative to the business of insurance. A timely response is one that is received by the commissioner within ((~~fifteen~~)) 15 business days from receipt of the inquiry. Failure to make a timely response constitutes a violation of this section and may result in a penalty under RCW 48.17.530 or 48.17.560.

((~~(7)~~)) (8)(a) A surplus line broker or other person licensed under this chapter shall timely respond in writing to an inquiry of the commissioner sent to the person's email address relative to the business of insurance. A timely response is one that is received by the commissioner within 15 business days from receipt of the inquiry. Failure to make a timely response constitutes a violation of this subsection if the requirements of (c) of this subsection are met.

(b)(i) When an email from the commissioner requires a response in accordance with this subsection, the commissioner shall:

(A) Send no fewer than two separate emails with a subject line stating "Response Required"; and

(B) Prominently display in large font type in the body of each email the following: "FAILURE TO TIMELY RESPOND TO THIS EMAIL IS A VIOLATION OF RCW 48.15.103 AND IS SUBJECT TO PENALTIES UNDER RCW 48.15.140 AND 48.17.560 INCLUDING FINES AND LICENSE REVOCATION. A TIMELY RESPONSE IS ONE RECEIVED BY THE COMMISSIONER WITHIN 15 BUSINESS DAYS OF YOUR RECEIPT OF THIS INQUIRY."

(ii) If the commissioner sends an inquiry by email and is notified that the email is undeliverable, the commissioner shall resend the notice once by mail to the person's last known address on record with the commissioner.

(c) A person is only in violation of this section if: (i) The commissioner complies with the requirements in (b) of this subsection; (ii) the commissioner sends a third and final written inquiry by certified mail to the person's last mailing address registered with the commissioner that follows the requirements of (b)(i)(B) of this subsection; and (iii) the commissioner fails to receive a response within 15 business days of the licensee's receipt of the inquiry.

(9) Email communication sent to an applicant prior to the issuance of a license, and auto-generated system emails regarding a license application or license renewal processes, are excluded from the requirements of subsection (8) of this section.

(10) A surplus line broker shall report to the commissioner any administrative action taken against the surplus line broker in another jurisdiction or by another governmental agency in this state within ((~~thirty~~)) 30 days of the final disposition of the matter. This report must include a copy of the order, consent to order, or other relevant legal documents.

((~~(8)~~)) (11) Within ((~~thirty~~)) 30 days of the initial pretrial hearing date, a surplus line broker shall report to the commissioner any criminal prosecution of the surplus line broker taken in any jurisdiction. The report must include a copy

of the initial complaint filed, the order resulting from the hearing, and any other relevant legal documents.

NEW SECTION. **Sec. 5.** A new section is added to chapter 48.02 RCW to read as follows:

(1) The commissioner shall develop and implement a process for an affected licensee to petition the commissioner for the removal of any disciplinary investigations and orders on the affected licensee's public disciplinary record related solely to an email-based violation of RCW 48.15.103 or 48.17.475 as those sections existed prior to July 1, 2023. An affected licensee who petitions the commissioner shall provide documentation demonstrating that the disciplinary investigations and orders on the affected licensee's record were solely the result of an email-based violation of RCW 48.15.103 or 48.17.475 as those sections existed prior to July 1, 2023. Upon receipt of a petition with appropriate documentation, the commissioner shall immediately:

(a) Remove any related disciplinary investigations and orders from the affected licensee's public disciplinary record;

(b) Send a notice to the national insurance producer registry that the commissioner erroneously took administrative action against the affected licensee and request that the national insurance producer registry expunge any related record of the administrative action from the affected licensee's history; and

(c) Send to the affected licensee, by certified mail, a copy of the commissioner's notice to the national insurance producer registry.

(2) The commissioner shall identify the amount of money collected as fines from each affected licensee solely for email-based violations of RCW 48.15.103 or 48.17.475 as those sections existed prior to July 1, 2023, and, as soon as practicable, refund such money to each affected licensee from the existing operating budget for the commissioner's office.

(3) As used in this section:

(a) "Affected licensee" means any licensee regulated by the commissioner who was penalized by the commissioner solely for an email-based violation of RCW 48.15.103 or 48.17.475 as those sections existed prior to July 1, 2023.

(b) "Email-based violation" means a violation solely of RCW 48.15.103 or 48.17.475, as those sections existed prior to July 1, 2023, resulting from an affected licensee's failure to provide a timely response to an inquiry of the commissioner where such inquiry was only sent to the affected licensee by email. A violation of RCW 48.17.475 or 48.15.103 that is connected to a different violation of any insurance laws or rules is not an email-based violation subject to this section.

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

NEW SECTION. **Sec. 7.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2023.

Passed by the House February 28, 2023.
Passed by the Senate March 22, 2023.
Approved by the Governor April 6, 2023.

Filed in Office of Secretary of State April 6, 2023.

CHAPTER 28

[House Bill 1303]

PROPERTY TAX—VARIOUS PROVISIONS

AN ACT Relating to the administration of property taxes; amending RCW 82.03.140, 84.40.370, 84.52.010, 84.52.010, 84.52.043, 84.52.043, 84.52.085, 84.55.015, and 84.55.020; creating new sections; providing an effective date; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 82.03.140 and 2018 c 174 s 13 are each amended to read as follows:

(1) A party filing an appeal with the board must elect either a formal or an informal proceeding, according to rules of practice and procedure adopted by the board. If no such election is made, the appeal must be treated as an election for an informal proceeding: PROVIDED, That nothing prevents the assessor or taxpayer, as a party to an appeal pursuant to RCW 84.08.130, within ((~~twenty~~)) 20 days from the date of the receipt of the notice of appeal, from filing with the clerk of the board notice of intention that the hearing be a formal one: PROVIDED, HOWEVER, That nothing herein may be construed to modify the provisions of RCW 82.03.190: AND PROVIDED FURTHER, That upon an appeal under RCW 82.03.130(1) (c), (d), (e), (h), (i), or (j), the director of revenue may, within ((~~ten~~)) 10 days from the date of its receipt of the notice of appeal, file with the clerk of the board notice of its intention that the hearing be held pursuant to chapter 34.05 RCW.

(2) A responding party may file a cross appeal. In the event that appeals are taken by different parties from the same decision, order, or determination, and only one party elects a formal proceeding, the appeal must be conducted as a formal proceeding.

Sec. 2. RCW 84.40.370 and 2013 c 23 s 364 are each amended to read as follows:

((~~The~~)) (1) Except as provided in subsection (2) of this section, the assessor shall list the property and assess it with reference to its value on the date the property lost its exempt status unless such property has been previously listed and assessed. ((~~He or she~~))

(2) For publicly owned property that loses its exempt status and becomes taxable, the assessor shall value and list such property as of the January 1st assessment date for the year of the status change in accordance with RCW 84.40.175.

(3) The assessor shall extend the taxes on the tax roll using the rate of percent applicable as if the property had been assessed in the previous year.

Sec. 3. RCW 84.52.010 and 2021 c 117 s 2 are each amended to read as follows:

(1) Except as is permitted under RCW 84.55.050, all taxes must be levied or voted in specific amounts.

(2) The rate percent of all taxes for state and county purposes, and purposes of taxing districts coextensive with the county, must be determined, calculated and fixed by the county assessors of the respective counties, within the

limitations provided by law, upon the assessed valuation of the property of the county, as shown by the completed tax rolls of the county, and the rate percent of all taxes levied for purposes of taxing districts within any county must be determined, calculated, and fixed by the county assessors of the respective counties, within the limitations provided by law, upon the assessed valuation of the property of the taxing districts respectively.

(3) When a county assessor finds that the aggregate rate of tax levy on any property, that is subject to the limitations set forth in RCW 84.52.043 or 84.52.050, exceeds the limitations provided in either of these sections, the assessor must recompute and establish a consolidated levy in the following manner:

(a) The full certified rates of tax levy for state, county, county road district, regional transit authority, and city or town purposes must be extended on the tax rolls in amounts not exceeding the limitations established by law; however, any state levy takes precedence over all other levies and may not be reduced for any purpose other than that required by RCW 84.55.010. If, as a result of the levies imposed under RCW 36.54.130, 36.69.145 by a park and recreation district described under (a)(((~~(vii)~~))) (viii) of this subsection (3), 84.34.230, 84.52.069, 84.52.105, the portion of the levy by a metropolitan park district that was protected under RCW 84.52.120, 84.52.125, 84.52.135, and 84.52.140, ((~~and~~)) the portion of the levy by a flood control zone district that was protected under RCW 84.52.816, and any portion of a levy resulting from the correction of a levy error under RCW 84.52.085(3), the combined rate of regular property tax levies that are subject to the one percent limitation exceeds one percent of the true and fair value of any property, then these levies must be reduced as follows:

(i) ((~~The~~)) The portion of any levy resulting from the correction of a levy error under RCW 84.52.085(3) must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated.

(ii) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the portion of the levy by a flood control zone district that was protected under RCW 84.52.816 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

(((~~(ii)~~))) (iii) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the levy imposed by a county under RCW 84.52.140 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

(((~~(iii)~~))) (iv) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the portion of the levy by a fire protection district or regional fire protection service authority that is protected under RCW 84.52.125 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

(((~~(iv)~~))) (v) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the levy imposed by a county under RCW 84.52.135 must be

reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

(((~~(v)~~))) (vi) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the levy imposed by a ferry district under RCW 36.54.130 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

(((~~(vi)~~))) (vii) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the portion of the levy by a metropolitan park district that is protected under RCW 84.52.120 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

(((~~(vii)~~))) (viii) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, then the levies imposed under RCW 36.69.145 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated. This subsection (3)(a)(((~~(vii)~~))) (viii) only applies to a park and recreation district located on an island and within a county with a population exceeding 2,000,000;

(((~~(viii)~~))) (ix) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, then the levies imposed under RCW 84.34.230, 84.52.105, and any portion of the levy imposed under RCW 84.52.069 that is in excess of 30 cents per $1,000 of assessed value, must be reduced on a pro rata basis until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated; and

(((~~(ix)~~))) (x) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, then the 30 cents per $1,000 of assessed value of tax levy imposed under RCW 84.52.069 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or eliminated.

(b) The certified rates of tax levy subject to these limitations by all junior taxing districts imposing taxes on such property must be reduced or eliminated as follows to bring the consolidated levy of taxes on such property within the provisions of these limitations:

(i) First, the certified property tax levy authorized under RCW 84.52.821 must be reduced on a pro rata basis or eliminated;

(ii) Second, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates of those junior taxing districts authorized under RCW 36.68.525, 36.69.145 except a park and recreation district described under (a)(((~~(vii)~~))) (viii) of this subsection, 35.95A.100, and 67.38.130 must be reduced on a pro rata basis or eliminated;

(iii) Third, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates of flood control zone districts other than the portion of a levy protected under RCW 84.52.816 must be reduced on a pro rata basis or eliminated;

(iv) Fourth, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates of all other junior taxing districts, other than

fire protection districts, regional fire protection service authorities, library districts, the first 50 ((~~cent[s]~~)) cents per $1,000 of assessed valuation levies for metropolitan park districts, and the first 50 ((~~cent[s]~~)) cents per $1,000 of assessed valuation levies for public hospital districts, must be reduced on a pro rata basis or eliminated;

(v) Fifth, if the consolidated tax levy rate still exceeds these limitations, the first 50 ((~~cent[s]~~)) cents per $1,000 of assessed valuation levies for metropolitan park districts created on or after January 1, 2002, must be reduced on a pro rata basis or eliminated;

(vi) Sixth, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates authorized to fire protection districts under RCW 52.16.140 and 52.16.160 and regional fire protection service authorities under RCW 52.26.140(1) (b) and (c) must be reduced on a pro rata basis or eliminated; and

(vii) Seventh, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates authorized for fire protection districts under RCW 52.16.130, regional fire protection service authorities under RCW 52.26.140(1)(a), library districts, metropolitan park districts created before January 1, 2002, under their first 50 ((~~cent[s]~~)) cents per $1,000 of assessed valuation levy, and public hospital districts under their first 50 ((~~cent[s]~~)) cents per $1,000 of assessed valuation levy, must be reduced on a pro rata basis or eliminated.

Sec. 4. RCW 84.52.010 and 2017 c 196 s 10 are each amended to read as follows:

(1) Except as is permitted under RCW 84.55.050, all taxes must be levied or voted in specific amounts.

(2) The rate percent of all taxes for state and county purposes, and purposes of taxing districts coextensive with the county, must be determined, calculated and fixed by the county assessors of the respective counties, within the limitations provided by law, upon the assessed valuation of the property of the county, as shown by the completed tax rolls of the county, and the rate percent of all taxes levied for purposes of taxing districts within any county must be determined, calculated and fixed by the county assessors of the respective counties, within the limitations provided by law, upon the assessed valuation of the property of the taxing districts respectively.

(3) When a county assessor finds that the aggregate rate of tax levy on any property, that is subject to the limitations set forth in RCW 84.52.043 or 84.52.050, exceeds the limitations provided in either of these sections, the assessor must recompute and establish a consolidated levy in the following manner:

(a) The full certified rates of tax levy for state, county, county road district, regional transit authority, and city or town purposes must be extended on the tax rolls in amounts not exceeding the limitations established by law; however any state levy takes precedence over all other levies and may not be reduced for any purpose other than that required by RCW 84.55.010. If, as a result of the levies imposed under RCW 36.54.130, 84.34.230, 84.52.069, 84.52.105, the portion of the levy by a metropolitan park district that was protected under RCW 84.52.120, 84.52.125, 84.52.135, and 84.52.140, ((~~and~~)) the portion of the levy by a flood control zone district that was protected under RCW 84.52.816, and

the portion of any levy resulting from the correction of a levy error under RCW 84.52.085(3), the combined rate of regular property tax levies that are subject to the one percent limitation exceeds one percent of the true and fair value of any property, then these levies must be reduced as follows:

(i) ((~~The~~)) The portion of any levy resulting from the correction of a levy error under RCW 84.52.085(3) must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

(ii) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the portion of the levy by a flood control zone district that was protected under RCW 84.52.816 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

((~~(ii)~~)) (iii) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the levy imposed by a county under RCW 84.52.140 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

((~~(iii)~~)) (iv) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the portion of the levy by a fire protection district or regional fire protection service authority that is protected under RCW 84.52.125 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

((~~(iv)~~)) (v) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the levy imposed by a county under RCW 84.52.135 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

((~~(v)~~)) (vi) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the levy imposed by a ferry district under RCW 36.54.130 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

((~~(vi)~~)) (vii) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the portion of the levy by a metropolitan park district that is protected under RCW 84.52.120 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

((~~(vii)~~)) (viii) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, then the levies imposed under RCW 84.34.230, 84.52.105, and any portion of the levy imposed under RCW 84.52.069 that is in excess of ((~~thirty~~)) 30 cents per ((~~thousand dollars~~)) $1,000 of assessed value, must be reduced on a pro rata basis until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated; and

(((~~(viii)~~))) (ix) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, then the ((~~thirty~~)) 30 cents per ((~~thousand dollars~~)) $1,000 of assessed value of tax levy imposed under RCW 84.52.069 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or eliminated.

(b) The certified rates of tax levy subject to these limitations by all junior taxing districts imposing taxes on such property must be reduced or eliminated as follows to bring the consolidated levy of taxes on such property within the provisions of these limitations:

(i) First, the certified property tax levy authorized under RCW 84.52.821 must be reduced on a pro rata basis or eliminated;

(ii) Second, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates of those junior taxing districts authorized under RCW 36.68.525, 36.69.145, 35.95A.100, and 67.38.130 must be reduced on a pro rata basis or eliminated;

(iii) Third, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates of flood control zone districts other than the portion of a levy protected under RCW 84.52.816 must be reduced on a pro rata basis or eliminated;

(iv) Fourth, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates of all other junior taxing districts, other than fire protection districts, regional fire protection service authorities, library districts, the first ((~~fifty cent[s]~~)) 50 cents per ((~~thousand dollars~~)) $1,000 of assessed valuation levies for metropolitan park districts, and the first ((~~fifty cent[s]~~)) 50 cents per ((~~thousand dollars~~)) $1,000 of assessed valuation levies for public hospital districts, must be reduced on a pro rata basis or eliminated;

(v) Fifth, if the consolidated tax levy rate still exceeds these limitations, the first ((~~fifty cent[s]~~)) 50 cents per ((~~thousand dollars~~)) $1,000 of assessed valuation levies for metropolitan park districts created on or after January 1, 2002, must be reduced on a pro rata basis or eliminated;

(vi) Sixth, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates authorized to fire protection districts under RCW 52.16.140 and 52.16.160 and regional fire protection service authorities under RCW 52.26.140(1) (b) and (c) must be reduced on a pro rata basis or eliminated; and

(vii) Seventh, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates authorized for fire protection districts under RCW 52.16.130, regional fire protection service authorities under RCW 52.26.140(1)(a), library districts, metropolitan park districts created before January 1, 2002, under their first ((~~fifty cent[s]~~)) 50 cents per ((~~thousand dollars~~)) $1,000 of assessed valuation levy, and public hospital districts under their first ((~~fifty cent[s]~~)) 50 cents per ((~~thousand dollars~~)) $1,000 of assessed valuation levy, must be reduced on a pro rata basis or eliminated.

Sec. 5. RCW 84.52.043 and 2021 c 117 s 3 are each amended to read as follows:

Within and subject to the limitations imposed by RCW 84.52.050 as amended, the regular ad valorem tax levies upon real and personal property by the taxing districts hereafter named are as follows:

(1) Levies of the senior taxing districts are as follows: (a) The levies by the state may not exceed the applicable aggregate rate limit specified in RCW 84.52.065 (2) or (4) adjusted to the state equalized value in accordance with the indicated ratio fixed by the state department of revenue to be used exclusively for the support of the common schools; (b) the levy by any county may not exceed ((~~one dollar and 80 cents~~)) $1.80 per $1,000 of assessed value; (c) the levy by any road district may not exceed ((~~two dollars and 25 cents~~)) $2.25 per $1,000 of assessed value; and (d) the levy by any city or town may not exceed ((~~three dollars and 37.5 cents~~)) $3.375 per $1,000 of assessed value. However, any county is hereby authorized to increase its levy from ((~~one dollar and 80 cents~~)) $1.80 to a rate not to exceed ((~~two dollars and 47.5 cents~~)) $2.475 per $1,000 of assessed value for general county purposes if the total levies for both the county and any road district within the county do not exceed ((~~four dollars and five cents~~)) $4.05 per $1,000 of assessed value, and no other taxing district has its levy reduced as a result of the increased county levy.

(2) The aggregate levies of junior taxing districts and senior taxing districts, other than the state, may not exceed ((~~five dollars and 90 cents~~)) $5.90 per $1,000 of assessed valuation. The term "junior taxing districts" includes all taxing districts other than the state, counties, road districts, cities, towns, port districts, and public utility districts. The limitations provided in this subsection do not apply to: (a) Levies at the rates provided by existing law by or for any port or public utility district; (b) excess property tax levies authorized in Article VII, section 2 of the state Constitution; (c) levies for acquiring conservation futures as authorized under RCW 84.34.230; (d) levies for emergency medical care or emergency medical services imposed under RCW 84.52.069; (e) levies to finance affordable housing imposed under RCW 84.52.105; (f) the portions of levies by metropolitan park districts that are protected under RCW 84.52.120; (g) levies imposed by ferry districts under RCW 36.54.130; (h) levies for criminal justice purposes under RCW 84.52.135; (i) the portions of levies by fire protection districts and regional fire protection service authorities that are protected under RCW 84.52.125; (j) levies by counties for transit-related purposes under RCW 84.52.140; (k) the portion of the levy by flood control zone districts that are protected under RCW 84.52.816; (l) levies imposed by a regional transit authority under RCW 81.104.175; ((~~and~~)) (m) levies imposed by any park and recreation district described under RCW 84.52.010(3)(a)(((~~(vii)~~))) (viii); and (n) the portion of any levy resulting from the correction of a levy error under RCW 84.52.085(3).

Sec. 6. RCW 84.52.043 and 2020 c 253 s 3 are each amended to read as follows:

Within and subject to the limitations imposed by RCW 84.52.050 as amended, the regular ad valorem tax levies upon real and personal property by the taxing districts hereafter named are as follows:

(1) Levies of the senior taxing districts are as follows: (a) The levies by the state may not exceed the applicable aggregate rate limit specified in RCW 84.52.065 (2) or (4) adjusted to the state equalized value in accordance with the indicated ratio fixed by the state department of revenue to be used exclusively for the support of the common schools; (b) the levy by any county may not exceed ((~~one dollar and eighty cents~~)) $1.80 per ((~~thousand dollars~~)) $1,000 of assessed value; (c) the levy by any road district may not exceed ((~~two dollars and~~

~~twenty-five cents~~)) $2.25 per ((~~thousand dollars~~)) $1,000 of assessed value; and (d) the levy by any city or town may not exceed ((~~three dollars and thirty-seven and one-half cents~~)) $3.375 per ((~~thousand dollars~~)) $1,000 of assessed value. However any county is hereby authorized to increase its levy from ((~~one dollar and eighty cents~~)) $1.80 to a rate not to exceed ((~~two dollars and forty-seven and one-half cents~~)) $2.475 per ((~~thousand dollars~~)) $1,000 of assessed value for general county purposes if the total levies for both the county and any road district within the county do not exceed ((~~four dollars and five cents~~)) $4.05 per ((~~thousand dollars~~)) $1,000 of assessed value, and no other taxing district has its levy reduced as a result of the increased county levy.

(2) The aggregate levies of junior taxing districts and senior taxing districts, other than the state, may not exceed ((~~five dollars and ninety cents~~)) $5.90 per ((~~thousand dollars~~)) $1,000 of assessed valuation. The term "junior taxing districts" includes all taxing districts other than the state, counties, road districts, cities, towns, port districts, and public utility districts. The limitations provided in this subsection do not apply to: (a) Levies at the rates provided by existing law by or for any port or public utility district; (b) excess property tax levies authorized in Article VII, section 2 of the state Constitution; (c) levies for acquiring conservation futures as authorized under RCW 84.34.230; (d) levies for emergency medical care or emergency medical services imposed under RCW 84.52.069; (e) levies to finance affordable housing imposed under RCW 84.52.105; (f) the portions of levies by metropolitan park districts that are protected under RCW 84.52.120; (g) levies imposed by ferry districts under RCW 36.54.130; (h) levies for criminal justice purposes under RCW 84.52.135; (i) the portions of levies by fire protection districts and regional fire protection service authorities that are protected under RCW 84.52.125; (j) levies by counties for transit-related purposes under RCW 84.52.140; (k) the portion of the levy by flood control zone districts that are protected under RCW 84.52.816; ((~~and~~)) (l) levies imposed by a regional transit authority under RCW 81.104.175; and (m) the portion of any levy resulting from the correction of a levy error under RCW 84.52.085(3).

Sec. 7. RCW 84.52.085 and 2001 c 185 s 14 are each amended to read as follows:

(1) If an error has occurred in the levy of property taxes that has caused all taxpayers within a taxing district, other than the state, to pay an incorrect amount of property tax, the assessor shall correct the error by making an appropriate adjustment to the levy for that taxing district in the succeeding year. The adjustment shall be made without including any interest. If the governing authority of the taxing district determines that the amount of the adjustment in the succeeding year is so large as to cause a hardship for the taxing district or the taxpayers within the district, the adjustment may be made on a proportional basis over a period of not more than three consecutive years.

(a) A correction of an error in the levying of property taxes shall not be made for any period more than three years preceding the year in which the error is discovered.

(b) When calculating the levy limitation under chapter 84.55 RCW for levies made following the discovery of an error, the assessor shall determine and use the correct levy amount for the year or years being corrected as though the

error had not occurred. The amount of the adjustment determined under this subsection (1) shall not be considered when calculating the levy limitation.

(c) If the taxing district in which a levy error has occurred does not levy property taxes in the year the error is discovered, or for a period of more than three years subsequent to the year the error was discovered, an adjustment shall not be made.

(2) If an error has occurred in the distribution of property taxes so that property tax collected has been incorrectly distributed to a taxing district or taxing districts wholly or partially within a county, the treasurer of the county in which the error occurred shall correct the error by making an appropriate adjustment to the amount distributed to that taxing district or districts in the succeeding year. The adjustment shall be made without including any interest. If the treasurer, in consultation with the governing authority of the taxing district or districts affected, determines that the amount of the adjustment in the succeeding year is so large as to cause a hardship for the taxing district or districts, the adjustment may be made on a proportional basis over a period of not more than three consecutive years. A correction of an error in the distribution of property taxes shall not be made for any period more than three years preceding the year in which the error is discovered.

(3) If the county assessor finds, prior to any recomputations made under RCW 84.52.010(3), that the adjustment to correct a levy error that occurred at no fault of the taxing district would cause the tax rate of that levy to exceed its maximum tax rate allowed in statute, then the correction of that levy error must be made in equal proportions over a period of three years immediately succeeding the year in which the error is discovered. The resulting adjustments to a levy to correct the type of levy error specified under this subsection (3) may be made even though the resulting tax rates for the three years may each exceed the statutory maximum rate for the levy. This subsection (3) applies only to levy errors that are at no fault of the taxing district that occur for taxes levied for collection in 2024 and thereafter.

Sec. 8. RCW 84.55.015 and 2014 c 4 s 2 are each amended to read as follows:

(1) If a taxing district has not levied ((~~since 1985~~)) for the last seven calendar years and elects to restore a regular property tax levy ((~~subject to applicable statutory limitations~~)), then ((~~such~~)) the amount of the first restored levy must ((~~be set so that the regular property tax payable does~~)) result in a tax rate that does not exceed ((~~the amount which was last levied, plus an additional dollar amount calculated by multiplying the property tax rate which is proposed to be restored, or the maximum amount which could be lawfully levied in the year such a restored levy is proposed, by the increase in assessed value in the district since the last levy resulting from:~~

~~(1) New construction;~~

~~(2) Increases in assessed value due to construction of wind turbine, solar, biomass, and geothermal facilities, if such facilities generate electricity and the property is not included elsewhere under this section for purposes of providing an additional dollar amount. The property may be classified as real or personal property;~~

~~(3) Improvements to property; and~~

~~(4) Any increase in the assessed value of state-assessed property~~)) the statutory rate limit applicable to the taxing district's regular property tax levy.

(2) If a taxing district has not levied for the last six or fewer calendar years and elects to restore a regular property tax levy, then the first restored levy must not exceed the maximum levy amount allowed by the levy limit that would have been imposed had the taxing district continuously levied.

Sec. 9. RCW 84.55.020 and 2014 c 4 s 3 are each amended to read as follows:

Notwithstanding the limitation set forth in RCW 84.55.010, the first levy for a taxing district created from consolidation of similar taxing districts must be set so that the regular property taxes payable in the following year do not exceed the limit factor multiplied by the sum of the amount of regular property taxes ((~~lawfully levied for~~)) each component taxing district ((~~in the highest of the three most recent years in which such taxes were levied for such district~~)) could have levied under RCW 84.55.092 plus the additional dollar amount calculated by multiplying the regular property tax rate of each component district for the preceding year by the increase in assessed value in each component district resulting from:

(1) New construction;

(2) Increases in assessed value due to construction of wind turbine, solar, biomass, and geothermal facilities, if such facilities generate electricity and the property is not included elsewhere under this section for purposes of providing an additional dollar amount. The property may be classified as real or personal property;

(3) Improvements to property; ((~~and~~))

(4) Any increase in the assessed value of state-assessed property; and

(5) Any increase in the assessed value of real property, as defined in RCW 39.114.010, within an increment area as designated by any local government under RCW 39.114.020 if the increase is not included elsewhere under this section. This subsection (5) does not apply to levies by the state or by port districts and public utility districts for the purpose of making required payments of principal and interest on general indebtedness.

NEW SECTION. **Sec. 10.** Sections 3 and 5 of this act expire January 1, 2027.

NEW SECTION. **Sec. 11.** Sections 4 and 6 of this act take effect January 1, 2027.

NEW SECTION. **Sec. 12.** Sections 2 and 7 through 9 of this act apply to taxes levied for collection in 2024 and thereafter.

NEW SECTION. **Sec. 13.** Sections 3 and 5 of this act apply to taxes levied for collection in 2024 through 2026.

NEW SECTION. **Sec. 14.** Sections 4 and 6 of this act apply to taxes levied for collection in 2027 and thereafter.

Passed by the House March 8, 2023.
Passed by the Senate March 22, 2023.
Approved by the Governor April 6, 2023.
Filed in Office of Secretary of State April 6, 2023.

CHAPTER 29

[House Bill 1319]

DRIVER'S LICENSE REEXAMINATION—COLLISIONS CAUSING SUBSTANTIAL BODILY HARM

AN ACT Relating to collision reporting criteria triggering driver's license reexamination; and amending RCW 46.52.070.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 46.52.070 and 2010 c 8 s 9060 are each amended to read as follows:

(1) Any police officer of the state of Washington or of any county, city, town, or other political subdivision, present at the scene of any accident or in possession of any facts concerning any accident whether by way of official investigation or otherwise shall make report thereof in the same manner as required of the parties to such accident and as fully as the facts in his or her possession concerning such accident will permit.

(2) The police officer shall report to the department, on a form prescribed by the director: (a) When a collision has occurred that results in a fatality; and (b) the identity of the operator of a vehicle involved in the collision when the officer has reasonable grounds to believe the operator caused the collision.

(3) The police officer shall report to the department, on a form prescribed by the director: (a) When a collision has occurred that results in ((~~a serious injury~~)) substantial bodily harm as defined in RCW 9A.04.110(4)(b); (b) the identity of the operator of a vehicle involved in the collision when the officer has reasonable grounds to believe the operator who caused the ((~~serious injury~~)) substantial bodily harm may not be competent to operate a motor vehicle; and (c) the reason or reasons for the officer's belief.

Passed by the House February 27, 2023.
Passed by the Senate March 22, 2023.
Approved by the Governor April 6, 2023.
Filed in Office of Secretary of State April 6, 2023.

CHAPTER 30

[Substitute House Bill 1458]

UNEMPLOYMENT INSURANCE—APPRENTICESHIP PROGRAMS—WORK GROUP

AN ACT Relating to unemployment insurance benefits for individuals participating in an apprenticeship program; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The employment security department shall convene a work group for the purpose of identifying and addressing legal and procedural barriers faced by eligible claimants participating in apprenticeship programs when those claimants seek timely access to unemployment insurance benefits. The work group must include representatives of apprenticeship programs and staff of the department, as well as other appropriate stakeholders identified by the department.

(2) The employment security department must submit a report with findings and recommendations, including a status update on applicable administrative

efforts to reduce procedural barriers identified by the work group, to the governor and appropriate committees of the legislature by December 1, 2023, in accordance with the requirements under RCW 43.01.036.

Passed by the House February 28, 2023.
Passed by the Senate March 22, 2023.
Approved by the Governor April 6, 2023.
Filed in Office of Secretary of State April 6, 2023.

CHAPTER 31

[Substitute House Bill 1499]

FOOD BANK FUNDING—USE FOR ESSENTIAL NONFOOD ITEMS

AN ACT Relating to food assistance funding; and amending RCW 43.23.290.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 43.23.290 and 2010 c 68 s 1 are each amended to read as follows:

(1) The director of the department may exercise powers and duties with respect to the administration of food assistance programs in the department. It is the intent of the legislature in administering the food assistance programs transferred to the department by chapter 68, Laws of 2010, that programs continue to be provided through community-based organizations. It is the intent of the legislature that in accepting the administration of food assistance programs, the department's core programs administered by the department by July 1, 2010, not be impacted.

(2) The director of the department may adopt rules necessary to implement the food assistance programs.

(3) The director of the department may enter into contracts and agreements to implement food assistance programs, including contracts and agreements with the United States department of agriculture, to implement federal food assistance programs.

(4) The department may not restrict the amount of food assistance program funding provided to food banks that may be used for essential nonfood items, including diapers, feminine products, and hygiene products, to less than 25 percent of total funding.

Passed by the House February 28, 2023.
Passed by the Senate March 22, 2023.
Approved by the Governor April 6, 2023.
Filed in Office of Secretary of State April 6, 2023.

CHAPTER 32

[House Bill 1540]

DRIVER TRAINING—LARGE VEHICLE AWARENESS

AN ACT Relating to requiring driver training curriculum to include instruction on sharing the road with large vehicles, including commercial motor vehicles and buses; amending RCW 46.82.420; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 46.82.420 and 2017 c 197 s 12 are each amended to read as follows:

(1) The department and the office of the superintendent of public instruction shall jointly develop and maintain a required curriculum as specified in RCW 28A.220.035. The department shall furnish to each qualifying applicant for an instructor's license or a driver training school license a copy of such curriculum.

(2) In addition to information on the safe, lawful, and responsible operation of motor vehicles on the state's highways, the required curriculum shall include information on:

(a) Intermediate driver's license issuance, passenger and driving restrictions and sanctions for violating the restrictions, and the effect of traffic violations and collisions on the driving privileges;

(b) The effects of alcohol and drug use on motor vehicle operators, including information on drug and alcohol related traffic injury and mortality rates in the state of Washington and the current penalties for driving under the influence of drugs or alcohol;

(c) Motorcycle awareness, approved by the director, to ensure new operators of motor vehicles have been instructed in the importance of safely sharing the road with motorcyclists;

(d) Bicycle safety, to ensure that operators of motor vehicles have been instructed in the importance of safely sharing the road with bicyclists; ((~~and~~))

(e) Pedestrian safety, to ensure that operators of motor vehicles have been instructed in the importance of safely sharing the road with pedestrians; and

(f) Commercial vehicle, bus, and other large vehicle awareness, to ensure new operators of motor vehicles have been instructed in the importance of sharing the road with large vehicles.

(3) Should the director be presented with acceptable proof that any licensed instructor or driver training school is not showing proper diligence in teaching the required curriculum, the instructor or school shall be required to appear before the director and show cause why the license of the instructor or school should not be revoked for such negligence. If the director does not accept such reasons as may be offered, the director may revoke the license of the instructor or school, or both.

NEW SECTION. **Sec. 2.** This act takes effect April 1, 2024.

Passed by the House February 28, 2023.
Passed by the Senate March 22, 2023.
Approved by the Governor April 6, 2023.
Filed in Office of Secretary of State April 6, 2023.

CHAPTER 33

[Senate Bill 5023]

ROADSIDE SAFETY—EMERGENCY AND WORK ZONES

AN ACT Relating to roadside safety measures; amending RCW 46.37.196 and 46.61.212; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** This act may be known and cited as the Arthur Anderson and Raymond Mitchell tow operators safety act.

Sec. 2. RCW 46.37.196 and 1977 ex.s. c 355 s 16 are each amended to read as follows:

All emergency tow trucks shall be identified by an intermittent or revolving red light capable of 360((°)) degree visibility at a distance of ((~~five hundred~~)) 500 feet under normal atmospheric conditions. ((~~This intermittent or revolving red light shall be used only at the scene of an emergency or accident, and it will be unlawful to use such light while traveling to or from an emergency or accident, or for any other purposes.~~)) The emergency tow trucks may also operate rear facing blue lights for use only at the scene of an emergency or accident. The red lights may be used when the tow truck is reentering the roadway from the scene of an emergency or accident for a reasonable distance to reach operating speed from the scene, and the combination of red and blue lights may be used only at the scene of an emergency or accident. It is unlawful to use the combination of lights when traveling to or from the scene of an accident or for any other purpose.

Sec. 3. RCW 46.61.212 and 2022 c 279 s 2 are each amended to read as follows:

(1) An emergency or work zone is defined as the adjacent lanes of the roadway 200 feet before and after:

(a) A stationary authorized emergency vehicle that is making use of audible and/or visual signals meeting the requirements of RCW 46.37.190;

(b) A tow truck that is making use of visual ((~~red~~)) lights meeting the requirements of RCW 46.37.196;

(c) Other vehicles providing roadside assistance that are making use of warning lights with 360 degree visibility;

(d) A police vehicle properly and lawfully displaying a flashing, blinking, or alternating emergency light or lights; or

(e) A stationary or slow moving highway construction vehicle, highway maintenance vehicle, solid waste vehicle, or utility service vehicle making use of flashing lights that meet the requirements of RCW 46.37.300 or warning lights with 360 degree visibility.

(2) The driver of any motor vehicle, upon approaching an emergency or work zone, shall:

(a) On a highway having four or more lanes, at least two of which are intended for traffic proceeding in the same direction as the approaching vehicle, proceed with caution, reduce the speed of the vehicle, and, if the opportunity exists, with due regard for safety and traffic conditions, yield the right-of-way by making a lane change or moving away from the lane or shoulder occupied by an emergency or work zone vehicle identified in subsection (1) of this section;

(b) On a highway having less than four lanes, proceed with caution, reduce the speed of the vehicle, and, if the opportunity exists, with due regard for safety and traffic conditions, and under the rules of this chapter, yield the right-of-way by passing to the left at a safe distance and simultaneously yield the right-of-way to all vehicles traveling in the proper direction upon the highway; or

(c) If changing lanes or moving away would be unsafe, proceed with due caution and continue to reduce the speed of the vehicle to at least 10 miles per hour below the posted speed limit, except for when the posted speed limit ((~~is~~)) exceeds 60 miles per hour or more, then reduce the speed of the vehicle to no more than 50 miles per hour.

(3) A person may not drive a vehicle in an emergency or work zone at a speed greater than the posted speed limit or greater than what is permitted under subsection (2)(c) of this section.

(4) A person found to be in violation of this section, or any infraction relating to speed restrictions in an emergency or work zone, must be assessed a monetary penalty equal to twice the penalty assessed under RCW 46.63.110. This penalty may not be waived, reduced, or suspended.

(5) A person who drives a vehicle in an emergency or work zone in such a manner as to endanger or be likely to endanger any emergency or work zone worker or property is guilty of reckless endangerment of emergency or work zone workers. A violation of this subsection is a gross misdemeanor punishable under chapter 9A.20 RCW.

(6) The department shall suspend for 60 days the driver's license, permit to drive, or nonresident driving privilege of a person convicted of reckless endangerment of emergency or work zone workers.

Passed by the Senate February 22, 2023.

Passed by the House March 24, 2023.

Approved by the Governor April 6, 2023.

Filed in Office of Secretary of State April 6, 2023.

CHAPTER 34

[Substitute Senate Bill 5028]

NAME CHANGES

AN ACT Relating to revising the process for individuals to request name changes; and amending RCW 4.24.130.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 4.24.130 and 2022 c 141 s 1 are each amended to read as follows:

(1) Any person desiring a change of the person's name or that of the person's child or ((~~ward~~)) of an individual subject to guardianship for whom the person has been appointed as guardian, may apply therefor to the district court of ((~~the~~)) any judicial district in ((~~which the person resides~~)) the state, by petition setting forth the ((~~reasons~~)) desire for such change; thereupon such court in its discretion may order a change of the name and thenceforth the new name shall be in place of the former.

(2) An offender under the jurisdiction of the department of corrections who applies to change the offender's name under subsection (1) of this section shall submit a copy of the application to the department of corrections not fewer than five days before the entry of an order granting the name change. No offender under the jurisdiction of the department of corrections at the time of application shall be granted an order changing the offender's name if the court finds that doing so will interfere with legitimate penological interests, except that no order shall be denied when the name change is requested for religious or legitimate cultural reasons or in recognition of marriage or dissolution of marriage. An offender under the jurisdiction of the department of corrections who receives an order changing the offender's name shall submit a copy of the order to the

department of corrections within five days of the entry of the order. Violation of this subsection is a misdemeanor.

(3) A sex offender subject to registration under RCW 9A.44.130 who applies to change the sex offender's name under subsection (1) of this section shall follow the procedures set forth in RCW 9A.44.130(7).

(4) The district court shall collect the fees authorized by RCW 36.18.010 for filing and recording a name change order, and transmit the fee and the order to the county auditor. The court may collect a reasonable fee to cover the cost of transmitting the order to the county auditor. Upon affidavit by the person seeking the name change or a qualified legal service provider that the person is unable to pay the fees due to financial hardship, the court shall waive all fees for filing and recording a name change order and direct the county auditor or recording officer to process the name change order at no expense to the person. The court may not waive the fees if the person has received victim compensation for name change fees. For purposes of this subsection, "qualified legal service provider" means a not-for-profit legal services organization in Washington state whose primary purpose is to provide legal services to low-income clients.

(5)(a) Name change petitions may be filed and shall be heard in any superior court ((~~when the~~)) in the state:

(i) When a person desiring a change of the person's name ((~~or that of the person's child or ward is a victim of domestic violence as defined in RCW 7.105.010 and the person seeks to have the name change file sealed due to reasonable fear for the person's safety or that of the person's child or ward~~)):

(A) Is an emancipated minor under chapter 13.64 RCW; or

(B) Has received asylum, refugee, or special immigrant juvenile status; or

(ii) If the reason for the person's name change, or the name change of the person's child or of an individual subject to guardianship for whom the person has been appointed as guardian, is:

(A) Related to gender expression or identity as defined in RCW 49.60.040; or

(B) Due to an experience of or reasonable fear of domestic violence, stalking, unlawful harassment, or coercive control as those terms are defined in RCW 7.105.010.

(b) When a person for whom a name change is sought is a child named in a proceeding under Title 13 or 74 RCW in which the court has exercised original, exclusive jurisdiction, the juvenile court has jurisdiction to either adjudicate a name change petition or grant concurrent jurisdiction to another court to hear the petition.

(c) Upon granting the name change, the superior court shall seal the file ((~~if the court finds that the safety of the person seeking the name change or the person's child or ward warrants sealing the file~~)) to protect the person's privacy or that of the person's child or of an individual subject to guardianship for whom the person has been appointed as guardian. In all cases filed under this subsection (5), whether or not the name change petition is granted, there shall be no public access to any court record of the name change filing, proceeding, or order, unless the name change is granted but the file is not sealed. The name change file shall not thereafter be open to inspection except: (i) Upon order of the court for good cause shown; or (ii) upon the request of the person whose name change was granted or the person's guardian or representative.

(d) This subsection (5) does not apply to a person who is subject to the requirements of subsection (2) or (3) of this section.

Passed by the Senate February 1, 2023.
Passed by the House March 24, 2023.
Approved by the Governor April 6, 2023.
Filed in Office of Secretary of State April 6, 2023.

CHAPTER 35

[Senate Bill 5041]

COMMERCIAL DRIVERS—DRUG AND ALCOHOL CLEARINGHOUSE

AN ACT Relating to compliance with federal motor carrier safety administration requirements for the drug and alcohol clearinghouse; amending RCW 46.25.052, 46.25.060, 46.25.088, 46.25.100, 46.25.090, 46.25.120, and 46.20.324; reenacting and amending RCW 46.25.010; adding a new section to chapter 46.25 RCW; repealing RCW 46.25.123 and 46.25.125; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 46.25.010 and 2019 c 195 s 1 and 2019 c 44 s 3 are each reenacted and amended to read as follows:

The definitions set forth in this section apply throughout this chapter.

(1) "Alcohol" means any substance containing any form of alcohol, including but not limited to ethanol, methanol, propanol, and isopropanol.

(2) "Alcohol concentration" means:

(a) The number of grams of alcohol per one hundred milliliters of blood; or

(b) The number of grams of alcohol per two hundred ten liters of breath.

(3) "Commercial driver's license" (CDL) means a license issued to an individual under chapter 46.20 RCW that has been endorsed in accordance with the requirements of this chapter to authorize the individual to drive a class of commercial motor vehicle.

(4) The "commercial driver's license information system" (CDLIS) is the information system established pursuant to 49 U.S.C. Sec. 31309 to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.

(5) "Commercial learner's permit" (CLP) means a permit issued under RCW 46.25.052 for the purposes of behind-the-wheel training.

(6) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

(a) Has a gross combination weight rating or gross combination weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater, inclusive of any towed unit or units with a gross vehicle weight rating or gross vehicle weight of more than 4,536 kilograms (10,000 pounds or more), whichever is greater; or

(b) Has a gross vehicle weight rating or gross vehicle weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater; or

(c) Is designed to transport ((~~sixteen~~)) 16 or more passengers, including the driver; or

(d) Is of any size and is used in the transportation of hazardous materials as defined in this section; or

(e) Is a school bus regardless of weight or size.

(7) "Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, entry into a deferred prosecution program under chapter 10.05 RCW, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.

(8) "Disqualification" means a prohibition against driving a commercial motor vehicle.

(9) "Drive" means to drive, operate, or be in physical control of a motor vehicle in any place open to the general public for purposes of vehicular traffic. For purposes of RCW 46.25.100, 46.25.110, and 46.25.120, "drive" includes operation or physical control of a motor vehicle anywhere in the state.

(10) "Drugs" are those substances as defined by RCW 69.04.009, including, but not limited to, those substances defined by 49 C.F.R. Sec. 40.3.

(11) "Employer" means any person, including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle, or assigns a person to drive a commercial motor vehicle.

(12) "Gross vehicle weight rating" (GVWR) means the value specified by the manufacturer as the maximum loaded weight of a single vehicle. The GVWR of a combination or articulated vehicle, commonly referred to as the "gross combined weight rating" or GCWR, is the GVWR of the power unit plus the GVWR of the towed unit or units. If the GVWR of any unit cannot be determined, the actual gross weight will be used. If a vehicle with a GVWR of less than 11,794 kilograms (26,001 pounds or less) has been structurally modified to carry a heavier load, then the actual gross weight capacity of the modified vehicle, as determined by RCW 46.44.041 and 46.44.042, will be used as the GVWR.

(13) "Hazardous materials" means any material that has been designated as hazardous under 49 U.S.C. Sec. 5103 and is required to be placarded under subpart F of 49 C.F.R. Part 172 or any quantity of a material listed as a select agent or toxin in 42 C.F.R. Part 73.

(14) "Motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, or any other vehicle required to be registered under the laws of this state, but does not include a vehicle, machine, tractor, trailer, or semitrailer operated exclusively on a rail.

(15)(a) "Nondomiciled CLP or CDL" means a permit or license, respectively, issued under RCW 46.25.054 to a person who meets one of the following criteria:

(i) Is domiciled in a foreign country as provided in 49 C.F.R. Sec. 383.23(b)(1) as it existed on October 1, 2017, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section; or

(ii) Is domiciled in another state as provided in 49 C.F.R. Sec. 383.23(b)(2) as it existed on October 1, 2017, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section.

(b) The definition in this subsection (15) applies exclusively to the use of the term in this chapter and is not to be applied in any other chapter of the Revised Code of Washington.

(16) "Out-of-service order" means a declaration by an authorized enforcement officer of a federal, state, Canadian, Mexican, or local jurisdiction that a driver, a commercial motor vehicle, or a motor carrier operation is out-of-service pursuant to 49 C.F.R. Secs. 386.72, 392.5, 395.13, 396.9, or compatible laws, or the North American uniform out-of-service criteria.

(17) "Positive alcohol confirmation test" means an alcohol confirmation test that:

(a) Has been conducted by a breath alcohol technician under 49 C.F.R. Part 40; and

(b) Indicates an alcohol concentration of 0.04 or more.

A report that a person has refused an alcohol test, under circumstances that constitute the refusal of an alcohol test under 49 C.F.R. Part 40, will be considered equivalent to a report of a positive alcohol confirmation test for the purposes of this chapter.

(18) "School bus" means a commercial motor vehicle used to transport preprimary, primary, or secondary school students from home to school, from school to home, or to and from school-sponsored events. School bus does not include a bus used as a common carrier.

(19) "Serious traffic violation" means:

(a) Excessive speeding, defined as fifteen miles per hour or more in excess of the posted limit;

(b) Reckless driving, as defined under state or local law;

(c) Driving while using a personal electronic device, defined as a violation of RCW 46.61.672, which includes in the activities it prohibits driving while holding a personal electronic device in either or both hands and using a hand or finger for texting, or an equivalent administrative rule or local law, ordinance, rule, or resolution;

(d) A violation of a state or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with an accident or collision resulting in death to any person;

(e) Driving a commercial motor vehicle without obtaining a commercial driver's license;

(f) Driving a commercial motor vehicle without a commercial driver's license in the driver's possession; however, any individual who provides proof to the court by the date the individual must appear in court or pay any fine for such a violation, that the individual held a valid CDL on the date the citation was issued, is not guilty of a "serious traffic violation";

(g) Driving a commercial motor vehicle without the proper class of commercial driver's license endorsement or endorsements for the specific vehicle group being operated or for the passenger or type of cargo being transported; and

(h) Any other violation of a state or local law relating to motor vehicle traffic control, other than a parking violation, that the department determines by rule to be serious.

(20) "State" means a state of the United States and the District of Columbia.

(21) "Substance abuse professional" means an alcohol and drug specialist meeting the credentials, knowledge, training, and continuing education requirements of 49 C.F.R. Sec. 40.281.

(22) "Tank vehicle" means any commercial motor vehicle that is designed to transport any liquid or gaseous materials within a tank or tanks having an individual rated capacity of more than ((~~one hundred nineteen~~)) 119 gallons and an aggregate rated capacity of ((~~one thousand~~)) 1,000 gallons or more that is either permanently or temporarily attached to the vehicle or the chassis. A commercial motor vehicle transporting an empty storage container tank, not designed for transportation, with a rated capacity of ((~~one thousand~~)) 1,000 gallons or more that is temporarily attached to a flatbed trailer is not considered a tank vehicle.

(23) "Type of driving" means one of the following:

(a) "Nonexcepted interstate," which means the CDL or CLP holder or applicant operates or expects to operate in interstate commerce, is both subject to and meets the qualification requirements under 49 C.F.R. Part 391 as it existed on April 30, 2019, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, and is required to obtain a medical examiner's certificate under 49 C.F.R. Sec. 391.45 as it existed on April 30, 2019, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section;

(b) "Excepted interstate," which means the CDL or CLP holder or applicant operates or expects to operate in interstate commerce, but engages exclusively in transportation or operations excepted under 49 C.F.R. Secs. 390.3(f), 391.2, 391.68, or 398.3, as they existed on April 30, 2019, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, from all or parts of the qualification requirements of 49 C.F.R. Part 391 as it existed on April 30, 2019, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, and is required to obtain a medical examiner's certificate in accordance with procedures provided in 49 C.F.R. Sec. 391.45 as it existed on April 30, 2019, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section;

(c) "Nonexcepted intrastate," which means the CDL or CLP holder or applicant operates only in intrastate commerce and is required to obtain a medical examiner's certificate in accordance with procedures provided in 49 C.F.R. Sec. 391.45 as it existed on April 30, 2019, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section; or

(d) "Excepted intrastate," which means the CDL or CLP holder wishes to maintain a CDL or CLP but not operate a commercial motor vehicle without changing his or her self-certification type.

(24) "United States" means the ((~~fifty~~)) 50 states and the District of Columbia.

(25) ((~~"Verified positive drug test" means a drug test result or validity testing result from a laboratory certified under the authority of the federal department of health and human services that:~~

~~(a) Indicates a drug concentration at or above the cutoff concentration established under 49 C.F.R. Sec. 40.87; and~~

~~(b) Has undergone review and final determination by a medical review officer.~~

~~A report that a person has refused a drug test, under circumstances that constitute the refusal of a federal department of transportation drug test under 49 C.F.R. Part 40, will be considered equivalent to a report of a verified positive drug test for the purposes of this chapter.~~

~~(26)~~)) "Collector truck" means a vehicle that:

(a) Has current registration;

(b) Is older than ((~~thirty~~)) 30 years old;

(c) Is a vehicle that meets the weight criteria of subsection (6) of this section;

(d) Is capable of safely operating on the highway;

(e) Is used for occasional use to and from truck conventions, auto shows, circuses, parades, displays, special excursions, and antique vehicle club meetings;

(f) Is used for the pleasure of others without compensation; and

(g) Is not used in the operations of a common or contract motor carrier and not used for commercial purposes.

((~~(27)~~)) (26) "Collector truck operator" means an operator of a noncommercial vehicle that is being exclusively owned and operated as a collector truck.

Sec. 2. RCW 46.25.052 and 2021 c 317 s 22 are each amended to read as follows:

(1) The department may issue a CLP to an applicant who is at least ((~~eighteen~~)) 18 years of age and holds a valid Washington state driver's license and who has:

(a) Submitted an application on a form or in a format provided by the department;

(b) Passed the general knowledge examination required for issuance of a CDL under RCW 46.25.060 for the commercial motor vehicle classification in which the applicant operates or expects to operate; ((~~and~~))

(c) Paid the appropriate examination fee or fees and an application fee of ((~~ten dollars~~)) $10 until June 30, 2016, and ((~~forty dollars~~)) $40 beginning July 1, 2016; and

(d) Not been prohibited from operating a commercial motor vehicle based on the department's query of the drug and alcohol clearinghouse as provided in 49 C.F.R. Sec. 383.73.

(2) A CLP must be marked "commercial learner's permit" or "CLP," and must be, to the maximum extent practicable, tamperproof. Other than a photograph of the applicant, it must include, but not be limited to, the information required on a CDL under RCW 46.25.080(1).

(3) The holder of a CLP may drive a commercial motor vehicle on a highway only when in possession of a valid driver's license and accompanied by the holder of a valid CDL who has the proper CDL classification and endorsement or endorsements necessary to operate the commercial motor vehicle. The CDL holder must at all times be physically present in the front seat of the vehicle next to the CLP holder or, in the case of a passenger vehicle, directly behind or in the first row behind the driver and must have the CLP holder under observation and direct supervision.

(4) A CLP may be classified in the same manner as a CDL under RCW 46.25.080(2)(a).

(5) CLPs may be issued with only P, S, or N endorsements as described in RCW 46.25.080(2)(b).

(a) The holder of a CLP with a P endorsement must have taken and passed the P endorsement knowledge examination. The holder of a CLP with a P endorsement is prohibited from operating a commercial motor vehicle carrying passengers other than authorized employees or representatives of the department and the federal motor carrier safety administration, examiners, other trainees, and the CDL holder accompanying the CLP holder as required under subsection (2) of this section. The P endorsement must be class specific.

(b) The holder of a CLP with an S endorsement must have taken and passed the S endorsement knowledge examination. The holder of a CLP with an S endorsement is prohibited from operating a school bus with passengers other than authorized employees or representatives of the department and the federal motor carrier safety administration, examiners, other trainees, and the CDL holder accompanying the CLP holder as required under subsection (2) of this section.

(c) The holder of a CLP with an N endorsement must have taken and passed the N endorsement knowledge examination. The holder of a CLP with an N endorsement may only operate an empty tank vehicle and is prohibited from operating any tank vehicle that previously contained hazardous materials and has not been purged of any residue.

(6) A CLP may be issued with appropriate restrictions as described in RCW 46.25.080(2)(c). In addition, a CLP may be issued with the following restrictions:

(a) "P" restricts the driver from operating a bus with passengers;

(b) "X" restricts the driver from operating a tank vehicle that contains cargo; and

(c) Any restriction as established by rule of the department.

(7) The holder of a CLP is not authorized to operate a commercial motor vehicle transporting hazardous materials.

(8) A CLP may not be issued for a period to exceed ((~~one hundred eighty~~)) 180 days. The department may renew the CLP for one additional ((~~one hundred eighty-day~~)) 180-day period without requiring the CLP holder to retake the general and endorsement knowledge examinations.

(9) The department must transmit the fees collected for CLPs to the state treasurer for deposit in the highway safety fund unless prior to July 1, 2023, the actions described in (a) or (b) of this subsection occur, in which case the portion of the revenue that is the result of the fee increased in section 206, chapter 44, Laws of 2015 3rd sp. sess. must be distributed to the connecting Washington account created under RCW 46.68.395.

(a) Any state agency files a notice of rule making under chapter 34.05 RCW, absent explicit legislative authorization enacted subsequent to July 1, 2015, for a rule regarding a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

(b) Any state agency otherwise enacts, adopts, orders, or in any way implements a fuel standard based upon or defined by the carbon intensity of fuel,

including a low carbon fuel standard or clean fuel standard, without explicit legislative authorization enacted subsequent to July 1, 2015.

(c) Nothing in this subsection acknowledges, establishes, or creates legal authority for the department of ecology or any other state agency to enact, adopt, order, or in any way implement a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

Sec. 3. RCW 46.25.060 and 2021 c 317 s 23 are each amended to read as follows:

(1)(a) No person may be issued a commercial driver's license unless that person:

(i) Is a resident of this state;

(ii) Has successfully completed a course of instruction in the operation of a commercial motor vehicle that has been approved by the director or has been certified by an employer as having the skills and training necessary to operate a commercial motor vehicle safely;

(iii) If he or she does not hold a valid commercial driver's license of the appropriate classification, has been issued a commercial learner's permit under RCW 46.25.052; ((~~and~~))

(iv) Has passed a knowledge and skills examination for driving a commercial motor vehicle that complies with minimum federal standards established by federal regulation enumerated in 49 C.F.R. Part 383, subparts F, G, and H, in addition to other requirements imposed by state law or federal regulation. The department may not allow the person to take the skills examination during the first ((~~fourteen~~)) 14 days after initial issuance of the person's commercial learner's permit. The examinations must be prescribed and conducted by the department; and

(v) Is not prohibited from operating a commercial motor vehicle based on the department's query of the drug and alcohol clearinghouse as provided in 49 C.F.R. Sec. 383.73.

(b) In addition to the fee charged for issuance or renewal of any license, the applicant shall pay a fee of no more than ((~~ten dollars~~)) $10 until June 30, 2016, and ((~~thirty-five dollars~~)) $35 beginning July 1, 2016, for the classified knowledge examination, classified endorsement knowledge examination, or any combination of classified license and endorsement knowledge examinations. The applicant shall pay a fee of no more than ((~~one hundred dollars~~)) $100 until June 30, 2016, and ((~~two hundred fifty dollars~~)) $250 beginning July 1, 2016, for each classified skill examination or combination of classified skill examinations conducted by the department.

(c) The department may authorize a person, including an agency of this or another state, an employer, a private driver training facility, or other private institution, or a department, agency, or instrumentality of local government, to administer the skills examination specified by this section under the following conditions:

(i) The examination is the same which would otherwise be administered by the state;

(ii) The third party has entered into an agreement with the state that complies with the requirements of 49 C.F.R. Sec. 383.75; and

(iii) The director has adopted rules as to the third party testing program and the development and justification for fees charged by any third party.

(d) If the applicant's primary use of a commercial driver's license is for any of the following, then the applicant shall pay a fee of no more than ((~~seventy-five dollars~~)) $75 until June 30, 2016, and ((~~two hundred twenty-five dollars~~)) $225 beginning July 1, 2016, for the classified skill examination or combination of classified skill examinations whether conducted by the department or a third-party tester:

(i) Public benefit not-for-profit corporations that are federally supported head start programs; or

(ii) Public benefit not-for-profit corporations that support early childhood education and assistance programs as described in RCW 43.216.505.

(e) Beginning July 1, 2016, if the applicant's primary use of a commercial driver's license is to drive a school bus, the applicant shall pay a fee of no more than ((~~one hundred dollars~~)) $100 for the classified skill examination or combination of classified skill examinations conducted by the department.

(f) Beginning July 1, 2016, payment of the examination fees under this subsection entitles the applicant to take the examination up to two times in order to pass.

(2)(a) The department may waive the skills examination and the requirement for completion of a course of instruction in the operation of a commercial motor vehicle specified in this section for a commercial driver's license applicant who meets the requirements of 49 C.F.R. Sec. 383.77. For current or former military service members that meet the requirements of 49 C.F.R. Sec. 383.77, the department may also waive the requirements for a knowledge test for commercial driver's license applicants. Beginning December 1, 2021, the department shall provide an annual report to the house and senate transportation committees and the joint committee on veterans' and military affairs of the legislature on the number and types of waivers granted pursuant to this subsection.

(b) An applicant who operates a commercial motor vehicle for agribusiness purposes is exempt from the course of instruction completion and employer skills and training certification requirements under this section. By January 1, 2010, the department shall submit recommendations regarding the continuance of this exemption to the transportation committees of the legislature. For purposes of this subsection (2)(b), "agribusiness" means a private carrier who in the normal course of business primarily transports:

(i) Farm machinery, farm equipment, implements of husbandry, farm supplies, and materials used in farming;

(ii) Agricultural inputs, such as seed, feed, fertilizer, and crop protection products;

(iii) Unprocessed agricultural commodities, as defined in RCW 17.21.020, where such commodities are produced by farmers, ranchers, vineyardists, or orchardists; or

(iv) Any combination of (b)(i) through (iii) of this subsection.

The department shall notify the transportation committees of the legislature if the federal government takes action affecting the exemption provided in this subsection (2)(b).

(3) A commercial driver's license or commercial learner's permit may not be issued to a person while the person is subject to a disqualification from driving a commercial motor vehicle, or while the person's driver's license is suspended, revoked, or canceled in any state, nor may a commercial driver's license be issued to a person who has a commercial driver's license issued by any other state unless the person first surrenders all such licenses, which must be returned to the issuing state for cancellation.

(4) The fees under this section must be deposited into the highway safety fund unless prior to July 1, 2023, the actions described in (a) or (b) of this subsection occur, in which case the portion of the revenue that is the result of the fee increased in section 207, chapter 44, Laws of 2015 3rd sp. sess. must be distributed to the connecting Washington account created under RCW 46.68.395.

(a) Any state agency files a notice of rule making under chapter 34.05 RCW, absent explicit legislative authorization enacted subsequent to July 1, 2015, for a rule regarding a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

(b) Any state agency otherwise enacts, adopts, orders, or in any way implements a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard, without explicit legislative authorization enacted subsequent to July 1, 2015.

(c) Nothing in this subsection acknowledges, establishes, or creates legal authority for the department of ecology or any other state agency to enact, adopt, order, or in any way implement a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

Sec. 4. RCW 46.25.088 and 2013 c 224 s 11 are each amended to read as follows:

(1) A CDL expires in the same manner as provided in RCW 46.20.181.

(2) When applying for renewal of a CDL, the applicant must:

(a) Complete the application form required under RCW 46.25.070(1), providing updated information and required certifications, and meet all the requirements of RCW 46.25.070 and 49 C.F.R. Sec. 383.71;

(b) Submit the application to the department in person; and

(c) If the applicant wishes to retain a hazardous materials endorsement, take and pass the written test for a hazardous materials endorsement.

(3) The department must not renew a CDL if the CDL holder is prohibited from operating a commercial motor vehicle based on a query of the drug and alcohol clearinghouse as provided in 49 C.F.R. Sec. 383.73.

Sec. 5. RCW 46.25.100 and 2021 c 317 s 20 are each amended to read as follows:

(1) When a person has been disqualified from operating a commercial motor vehicle, the person is not entitled to have the commercial driver's license or commercial learner's permit restored until after the expiration of the appropriate disqualification period required under RCW 46.25.090 ((~~or until the department has received a drug and alcohol assessment and evidence is presented of satisfactory participation in or completion of any required drug or alcohol treatment program for ending the disqualification under RCW 46.25.090(7)~~)).

After expiration of the appropriate period and upon payment of a requalification fee of ((~~twenty dollars~~)) $20 until June 30, 2016, and ((~~thirty-five dollars~~)) $35 beginning July 1, 2016, ((~~or one hundred fifty dollars if the person has been disqualified under RCW 46.25.090(7),~~)) the person may apply for a new, duplicate, or renewal commercial driver's license or commercial learner's permit as provided by law. If the person has been disqualified for a period of one year or more, the person shall demonstrate that he or she meets the commercial driver's license or commercial learner's permit qualification standards specified in RCW 46.25.060.

(2) The fees under this section must be deposited into the highway safety fund unless prior to July 1, 2023, the actions described in (a) or (b) of this subsection occur, in which case the portion of the revenue that is the result of the fee increased in section 208, chapter 44, Laws of 2015 3rd sp. sess. must be distributed to the connecting Washington account created under RCW 46.68.395.

(a) Any state agency files a notice of rule making under chapter 34.05 RCW, absent explicit legislative authorization enacted subsequent to July 1, 2015, for a rule regarding a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

(b) Any state agency otherwise enacts, adopts, orders, or in any way implements a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard, without explicit legislative authorization enacted subsequent to July 1, 2015.

(c) Nothing in this subsection acknowledges, establishes, or creates legal authority for the department of ecology or any other state agency to enact, adopt, order, or in any way implement a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

Sec. 6. RCW 46.25.090 and 2022 c 51 s 1 are each amended to read as follows:

(1) A person is disqualified from driving a commercial motor vehicle for a period of not less than one year if a report has been received by the department pursuant to RCW 46.20.308 or 46.25.120, or if the person has been convicted of a first violation, within this or any other jurisdiction, of:

(a) Driving a motor vehicle under the influence of alcohol or any drug;

(b) Driving a commercial motor vehicle while the alcohol concentration in the person's system is 0.04 or more or any measurable amount of THC concentration, or driving a noncommercial motor vehicle while the alcohol concentration in the person's system is 0.08 or more, or is 0.02 or more if the person is under age ((~~twenty-one~~)) 21, or with a THC concentration of 5.00 nanograms per milliliter of whole blood or more, or a THC concentration above 0.00 if the person is under the age of ((~~twenty-one~~)) 21, as determined by any testing methods approved by law in this state or any other state or jurisdiction;

(c) Leaving the scene of an accident involving a motor vehicle driven by the person;

(d) Using a motor vehicle in the commission of a felony;

(e) Refusing to submit to a test or tests to determine the driver's alcohol concentration or the presence of any drug while driving a motor vehicle;

(f) Driving a commercial motor vehicle when, as a result of prior violations committed while operating a commercial motor vehicle, the driver's commercial driver's license is revoked, suspended, or canceled, or the driver is disqualified from operating a commercial motor vehicle;

(g) Causing a fatality through the negligent operation of a commercial motor vehicle, including but not limited to the crimes of vehicular homicide and negligent homicide.

If any of the violations set forth in this subsection occurred while transporting hazardous material, the person is disqualified for a period of not less than three years.

(2) A person is disqualified for life if it has been determined that the person has committed or has been convicted of two or more violations of any of the offenses specified in subsection (1) of this section, or any combination of those offenses, arising from two or more separate incidents.

(3) The department may adopt rules, in accordance with federal regulations, establishing guidelines, including conditions, under which a disqualification for life under subsection (2) of this section may be reduced to a period of not less than ((~~ten~~)) 10 years.

(4) A person is disqualified from driving a commercial motor vehicle for life who:

(a) Uses a motor vehicle in the commission of a felony involving the manufacture, distribution, or dispensing of a controlled substance, as defined by chapter 69.50 RCW, or possession with intent to manufacture, distribute, or dispense a controlled substance, as defined by chapter 69.50 RCW; or

(b) Uses a motor vehicle in the commission of any trafficking offense under RCW 9A.40.100, which offenses are deemed consistent with felonies involving severe forms of trafficking in persons as described by the federal motor carrier safety administration.

(5)(a) A person is disqualified from driving a commercial motor vehicle for a period of:

(i) Not less than ((~~sixty~~)) 60 days if:

(A) Convicted of or found to have committed a second serious traffic violation while driving a commercial motor vehicle; or

(B) Convicted of reckless driving, where there has been a prior serious traffic violation; or

(ii) Not less than ((~~one hundred twenty~~)) 120 days if:

(A) Convicted of or found to have committed a third or subsequent serious traffic violation while driving a commercial motor vehicle; or

(B) Convicted of reckless driving, where there has been two or more prior serious traffic violations.

(b) The disqualification period under (a)(ii) of this subsection must be in addition to any other previous period of disqualification.

(c) For purposes of determining prior serious traffic violations under this subsection, each conviction of or finding that a driver has committed a serious traffic violation while driving a commercial motor vehicle or noncommercial motor vehicle, arising from a separate incident occurring within a three-year period, must be counted.

(6) A person is disqualified from driving a commercial motor vehicle for a period of:

(a) Not less than ((~~one hundred eighty~~)) 180 days nor more than one year if convicted of or found to have committed a first violation of an out-of-service order while driving a commercial vehicle;

(b) Not less than two years nor more than five years if, during a ((~~ten-year~~)) 10-year period, the person is convicted of or is found to have committed two violations of out-of-service orders while driving a commercial motor vehicle in separate incidents;

(c) Not less than three years nor more than five years if, during a ((~~ten-year~~)) 10-year period, the person is convicted of or is found to have committed three or more violations of out-of-service orders while driving commercial motor vehicles in separate incidents;

(d) Not less than ((~~one hundred eighty~~)) 180 days nor more than two years if the person is convicted of or is found to have committed a first violation of an out-of-service order while transporting hazardous materials, or while operating motor vehicles designed to transport ((~~sixteen~~)) 16 or more passengers, including the driver. A person is disqualified for a period of not less than three years nor more than five years if, during a ((~~ten-year~~)) 10-year period, the person is convicted of or is found to have committed subsequent violations of out-of-service orders, in separate incidents, while transporting hazardous materials, or while operating motor vehicles designed to transport sixteen or more passengers, including the driver.

(7) ((~~A person is disqualified from driving a commercial motor vehicle if a report has been received by the department under RCW 46.25.125 that the person has received a verified positive drug test or positive alcohol confirmation test as part of the testing program conducted under 49 C.F.R. 40. A disqualification under this subsection remains in effect until the person undergoes a drug and alcohol assessment by a substance abuse professional meeting the requirements of 49 C.F.R. 40, and the person presents evidence of satisfactory participation in or successful completion of a drug or alcohol treatment and/or education program as recommended by the substance abuse professional, and until the person has met the requirements of RCW 46.25.100. The substance abuse professional shall forward a diagnostic evaluation and treatment recommendation to the department of licensing for use in determining the person's eligibility for driving a commercial motor vehicle. Persons who are disqualified under this subsection more than twice in a five year period are disqualified for life.~~

(~~8~~)))(a) A person is disqualified from driving a commercial motor vehicle for the period of time specified in (b) of this subsection if he or she is convicted of or is found to have committed one of the following six offenses at a railroad-highway grade crossing while operating a commercial motor vehicle in violation of a federal, state, or local law or regulation:

(i) For drivers who are not required to always stop, failing to slow down and check that the tracks are clear of an approaching train or other on-track equipment;

(ii) For drivers who are not required to always stop, failing to stop before reaching the crossing, if the tracks are not clear;

(iii) For drivers who are always required to stop, failing to stop before driving onto the crossing;

(iv) For all drivers, failing to have sufficient space to drive completely through the crossing without stopping;

(v) For all drivers, failing to obey a traffic control device or the directions of an enforcement officer at the crossing;

(vi) For all drivers, failing to negotiate a crossing because of insufficient undercarriage clearance.

(b) A person is disqualified from driving a commercial motor vehicle for a period of:

(i) Not less than ((~~sixty~~)) 60 days if the driver is convicted of or is found to have committed a first violation of a railroad-highway grade crossing violation;

(ii) Not less than ((~~one hundred twenty~~)) 120 days if the driver is convicted of or is found to have committed a second railroad-highway grade crossing violation in separate incidents within a three-year period;

(iii) Not less than one year if the driver is convicted of or is found to have committed a third or subsequent railroad-highway grade crossing violation in separate incidents within a three-year period.

(((~~(9)~~))) (8) A person is disqualified from driving a commercial motor vehicle for not more than one year if a report has been received by the department from the federal motor carrier safety administration that the person's driving has been determined to constitute an imminent hazard as defined by 49 C.F.R. 383.5. A person who is simultaneously disqualified from driving a commercial motor vehicle under this subsection and under other provisions of this chapter, or under 49 C.F.R. 383.52, shall serve those disqualification periods concurrently.

(((~~(10)~~))) (9) Within ((~~ten~~)) 10 days after suspending, revoking, or canceling a commercial driver's license or disqualifying a driver from operating a commercial motor vehicle, the department shall update its records to reflect that action.

NEW SECTION. **Sec. 7.** A new section is added to chapter 46.25 RCW to read as follows:

(1) The department, upon receiving notification that pursuant to 49 C.F.R. Sec. 382 that a Washington state CLP or CDL holder is prohibited from operating a commercial motor vehicle, must initiate a downgrade of the CLP or CDL. The downgrade must be completed and recorded on the CDLIS driver record within 60 days of the department's receipt of such notification.

(2) Any administrative review made available by the federal motor carrier safety administration is the exclusive remedy for a CDL or CLP holder to contest administrative or clerical errors in the information sent to the department from the drug and alcohol clearinghouse.

(3) When the department receives notification that a CLP or CDL holder is no longer prohibited from operating a commercial motor vehicle under subsection (1) of this section, the department must remove the downgrade or pending downgrade.

(4) If the federal motor carrier safety administration notifies the state that the driver was erroneously identified as prohibited from operating a commercial motor vehicle, the department shall: Remove the downgrade and remove any reference related to the driver's erroneous prohibited status from CDLIS and the driver's record.

Sec. 8. RCW 46.25.120 and 2022 c 16 s 39 are each amended to read as follows:

(1) A person who drives a commercial motor vehicle within this state is deemed to have given consent, subject to RCW 46.61.506, to take a test or tests of that person's breath for the purpose of determining that person's alcohol concentration.

(2) A test or tests may be administered at the direction of a law enforcement officer, who after stopping or detaining the commercial motor vehicle driver, has reasonable grounds to believe that driver was driving a commercial motor vehicle while having alcohol in his or her system or while under the influence of any drug.

(3) The law enforcement officer requesting the test under subsection (1) of this section shall warn the person requested to submit to the test that a refusal to submit will result in that person being disqualified from operating a commercial motor vehicle under RCW 46.25.090.

(4) A law enforcement officer who at the time of stopping or detaining a commercial motor vehicle driver has reasonable grounds to believe that driver was driving a commercial motor vehicle while having alcohol, cannabis, or any drug in his or her system or while under the influence of alcohol, cannabis, or any drug may obtain a blood test pursuant to a search warrant, a valid waiver of the warrant requirement, when exigent circumstances exist, or under any other authority of law.

(5) If the person refuses testing, or a test is administered that discloses an alcohol concentration of 0.04 or more or any measurable amount of THC concentration, the law enforcement officer shall submit a sworn report to the department certifying that the test was requested pursuant to subsection (1) of this section or a blood test was administered pursuant to subsection (4) of this section and that the person refused to submit to testing, or a test was administered that disclosed an alcohol concentration of 0.04 or more or any measurable amount of THC concentration.

(6) Upon receipt of the sworn report of a law enforcement officer under subsection (5) of this section, the department shall disqualify the driver from driving a commercial motor vehicle under RCW 46.25.090, subject to the hearing provisions of RCW 46.20.329 and 46.20.332. The hearing shall be conducted in the county of the arrest. For the purposes of this section, the hearing shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a commercial motor vehicle within this state while having alcohol in the person's system or while under the influence of any drug, whether the person refused to submit to the test or tests upon request of the officer after having been informed that the refusal would result in the disqualification of the person from driving a commercial motor vehicle, if applicable, and, if the test was administered, whether the results indicated an alcohol concentration of 0.04 percent or more or any measurable amount of THC concentration. The department shall order that the disqualification of the person either be rescinded or sustained. Any decision by the department disqualifying a person from driving a commercial motor vehicle is stayed and does not take effect while a formal hearing is pending under this section or during the pendency of a subsequent appeal to superior court so long as there is no conviction for a

moving violation or no finding that the person has committed a traffic infraction that is a moving violation during the pendency of the hearing and appeal. If the disqualification of the person is sustained after the hearing, the person who is disqualified may file a petition in the superior court of the county of arrest to review the final order of disqualification by the department in the manner provided in RCW 46.20.334.

((~~(7) If a motor carrier or employer who is required to have a testing program under 49 C.F.R. 382 knows that a commercial driver in his or her employ has refused to submit to testing under this section and has not been disqualified from driving a commercial motor vehicle, the employer may notify law enforcement or his or her medical review officer or breath alcohol technician that the driver has refused to submit to the required testing.~~

~~(8) The hearing provisions of this section do not apply to those persons disqualified from driving a commercial motor vehicle under RCW 46.25.090(7).~~))

Sec. 9. RCW 46.20.324 and 2005 c 288 s 6 are each amended to read as follows:

Unless otherwise provided by law, a person shall not be entitled to a driver improvement interview or formal hearing under the provisions of RCW 46.20.322 through 46.20.333 when the person:

(1) Has been granted the opportunity for an administrative review, informal settlement, or formal hearing under RCW 46.20.245, 46.20.308, 46.25.120, ((~~46.25.125,~~)) 46.65.065, 74.20A.320, or by rule of the department; or

(2) Has refused or neglected to submit to an examination as required by RCW 46.20.305.

NEW SECTION. **Sec. 10.** The following acts or parts of acts are each repealed:

(1) RCW 46.25.123 (Mandatory reporting of positive test) and 2005 c 325 s 3 & 2002 c 272 s 1; and

(2) RCW 46.25.125 (Disqualification for positive test—Procedure) and 2005 c 325 s 4 & 2002 c 272 s 2.

NEW SECTION. **Sec. 11.** This act takes effect November 18, 2024.

Passed by the Senate February 15, 2023.
Passed by the House March 24, 2023.
Approved by the Governor April 6, 2023.
Filed in Office of Secretary of State April 6, 2023.

CHAPTER 36

[Senate Bill 5089]

FACTORY ASSEMBLED STRUCTURES—VARIOUS PROVISIONS

AN ACT Relating to making changes to factory assembled structures, manufactured or mobile homes, commercial coaches, conversion vending units, medical units, recreational vehicles, and park trailers requirements, including adding board members to the factory assembled structures advisory committee; amending RCW 43.22.420, 43.22A.010, 43.22A.020, 43.22A.080, 43.22A.110, 43.22A.120, 43.22A.140, and 43.22.495; and reenacting and amending RCW 43.22A.005.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 43.22.420 and 2001 c 335 s 2 are each amended to read as follows:

There is hereby created a factory assembled structures advisory board consisting of ((~~nine~~)) at least 11 members to be appointed by the director of labor and industries. It shall be the purpose and function of the board to advise the director on all matters pertaining to the enforcement of this chapter including but not limited to standards of body and frame design, construction and plumbing, heating and electrical installations, minimum inspection procedures, the adoption of rules pertaining to the manufacture of factory assembled structures, manufactured homes, commercial coaches, conversion vending units, medical units, recreational vehicles, and park trailers. The advisory board shall periodically review the rules adopted under RCW 43.22.450 through 43.22.490 and shall recommend changes of such rules to the department if it deems changes advisable.

The members of the advisory board shall be representative of consumers, the regulated industries, and allied trades and professionals. When appointing members, the director must consider the gender, racial, ethnic, and geographic diversity of the state, including the interests of persons with disabilities. The term of each member shall be four years and members must apply for reappointment if terms would be consecutive. However, the director may appoint the initial members of the advisory board to staggered terms not exceeding four years.

The chief inspector or any person acting as chief inspector for the factory assembled structures, manufactured or mobile home, commercial coach, conversion vending units, medical units, recreational vehicle, and park trailer section shall serve as secretary of the board during his tenure as chief. Meetings of the board shall be called at the discretion of the director of labor and industries, but at least quarterly. Each member of the board shall be paid travel expenses in accordance with RCW 43.03.050 and 43.03.060 which shall be paid out of the appropriation to the department of labor and industries, upon vouchers approved by the director of labor and industries or his or her designee.

Sec. 2. RCW 43.22A.005 and 1994 c 284 s 14 are each reenacted and amended to read as follows:

The purpose of this chapter is to ensure that all ((~~mobile and~~)) manufactured and mobile homes are installed by a certified manufactured home installer in accordance with the state installation ((~~code~~)) requirements, chapter ((~~296-150B~~)) 296-150I WAC, in order to provide greater protections to consumers and make the warranty requirement of RCW 46.70.134 easier to achieve.

Sec. 3. RCW 43.22A.010 and 2007 c 432 s 3 are each amended to read as follows:

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

(1) "Authorized representative" means an employee of a state agency, city, or county acting on behalf of the department.

(2) "Certified manufactured home installer" means a person who is in the business of installing ((~~mobile or~~)) manufactured or mobile homes and who has been issued a certificate by the department as provided in this chapter.

(3) "Department" means the department of labor and industries.

(4) "Director" means the director of labor and industries.

(5) "Manufactured home" means a single-family dwelling built in accordance with the department of housing and urban development manufactured home construction and safety standards act, which is a national, preemptive building code.

(6) "((~~Mobile or manufactured~~)) Manufactured or mobile home installation" means all on-site work necessary for the ((~~installation~~)) setting up and completion of a manufactured or mobile home, ((~~including:~~

~~(a) Construction of the foundation system;~~

~~(b) Installation of the support piers and earthquake resistant bracing system;~~

~~(c) Required connection to foundation system and support piers;~~

~~(d) Skirting;~~

~~(e) Connections to the on-site water and sewer systems that are necessary for the normal operation of the home; and~~

~~(f) Extension of the pressure relief valve for the water heater~~)) starting with the preparation of the building site through the final permit approval.

(7) "Manufactured home standards" means the manufactured home construction and safety standards as promulgated by the United States department of housing and urban development (HUD).

(8) "Mobile home" means a factory-built dwelling built prior to June 15, 1976, to standards other than the HUD code, and acceptable under applicable state codes in effect at the time of construction or introduction of the home into the state. Mobile homes have not been built since introduction of the HUD manufactured home construction and safety standards act.

(9) "Training course" means the education program administered by the department, or the education course administered by an approved educational provider, as a prerequisite to taking the examination for certification.

(10) "Approved educational provider" means an organization approved by the department to provide education and training of manufactured home installers and local inspectors.

Sec. 4. RCW 43.22A.020 and 2007 c 432 s 1 are each amended to read as follows:

Beginning on July 1, 2007, the department shall perform all the consumer complaint and related functions of the state administrative agency that are required for purposes of complying with the regulations established by the federal department of housing and urban development for manufactured housing, including the preparation and submission of the state administrative plan.

The department may enter into state or local interagency agreements to coordinate site inspection activities with record monitoring and complaint handling. The interagency agreement may also provide for the reimbursement for cost of work that an agency performs. The department may include other related areas in any interagency agreements which are necessary for the efficient provision of services.

((~~The department of community, trade, and economic development shall transfer all records, files, books, and documents necessary for the department to assume these new functions.~~

~~The directors of community, trade, and economic development and of labor and industries shall immediately take such steps as are necessary to ensure that chapter 432, Laws of 2007 is implemented on July 1, 2007.~~))

Sec. 5. RCW 43.22A.080 and 2011 c 301 s 11 are each amended to read as follows:

(1) The department may revoke a certificate of manufactured home installation upon the following grounds:

(a) The certificate was obtained through error or fraud;

(b) The holder of the certificate is judged to be incompetent as a result of multiple infractions of the state installation ((~~code~~)) requirements, WAC ((~~296-150B-200 through 296-150B-255~~)) 296-150I-0300 through 296-150I-0410; or

(c) The holder has violated a provision of this chapter or a rule adopted to implement this chapter.

(2) Before a certificate of manufactured home installation is revoked, the holder must be given written notice of the department's intention to revoke the certificate, sent using a method by which the mailing can be tracked or the delivery can be confirmed to the holder's last known address. The notice shall enumerate the allegations against the holder, and shall give the holder the opportunity to request a hearing. At the hearing, the department and the holder may produce witnesses and give testimony. The hearing shall be conducted in accordance with the provisions of chapter 34.05 RCW.

Sec. 6. RCW 43.22A.110 and 1998 c 124 s 8 are each amended to read as follows:

Any local government ((~~mobile or~~)) manufactured or mobile home installation application and permit shall state either the name and registration number of the contractor or licensed manufactured home dealer or the certification identification number of the certified manufactured home installer supervising such installation. A local government may not issue final approval for the installation of a manufactured home unless the certified installer or the installer's agent has posted at the set-up site the manufactured home installer's certification number and has identified the work being performed on the manufactured home installation on a form prescribed by the department.

Sec. 7. RCW 43.22A.120 and 1994 c 284 s 16 are each amended to read as follows:

After July 1, 1995, a ((~~mobile or~~)) manufactured or mobile home may not be installed without a certified manufactured home installer providing on-site supervision whenever installation work is being performed. The certified manufactured home installer is responsible for the reading, understanding, and following ((~~[of]~~)) of the manufacturer's installation instructions and performance of noncertified workers engaged in the installation of the home. There shall be at least one certified manufactured home installer on the installation site whenever installation work is being performed.

A manufactured home installer certification shall not be required for:

(1) Site preparation;

(2) Sewer and water connections outside of the building site;

(3) Specialty trades that are responsible for constructing accessory structures such as garages, carports, and decks;

(4) Pouring concrete into forms;

(5) Painting and dry wall finishing;

(6) Carpet installation;

(7) Specialty work performed within the scope of their license by licensed plumbers or electricians. This provision does not waive or lessen any state regulations related to licensing or permits required for electricians or plumbers;

(8) A ((~~mobile or~~)) manufactured or mobile homeowner performing installation work on their own home; and

(9) A manufacturer's ((~~mobile~~)) home installation crew installing a ((~~mobile or~~)) manufactured or mobile home sold by the manufacturer except for the on-site supervisor.

Violation of this section is an infraction.

Sec. 8. RCW 43.22A.140 and 1994 c 284 s 24 are each amended to read as follows:

An authorized representative may investigate alleged or apparent violations of this chapter. Upon presentation of credentials, an authorized representative, including a local government building official, may inspect sites at which manufactured home installation work is undertaken to determine whether such work is being done under the supervision of a certified manufactured home installer and conforms with the state installation requirements. Upon request of the authorized representative, a person performing manufactured home installation work shall identify the person holding the certificate issued by the department in accordance with this chapter.

Sec. 9. RCW 43.22.495 and 2007 c 432 s 7 are each amended to read as follows:

Beginning on July 1, 2007, the department of labor and industries shall perform all the consumer complaint and related functions of the state administrative agency that are required for purposes of complying with the regulations established by the federal department of housing and urban development for manufactured housing, including the preparation and submission of the state administrative plan.

The department of labor and industries may enter into state or local interagency agreements to coordinate site inspection activities with record monitoring and complaint handling. The interagency agreement may also provide for the reimbursement for cost of work that an agency performs. The department may include other related areas in any interagency agreements which are necessary for the efficient provision of services.

((~~The directors of the department of community, trade, and economic development and the department of labor and industries shall immediately take such steps as are necessary to ensure that chapter 432, Laws of 2007 is implemented on July 1, 2007.~~))

Passed by the Senate January 25, 2023.

Passed by the House March 24, 2023.

Approved by the Governor April 6, 2023.

Filed in Office of Secretary of State April 6, 2023.

CHAPTER 37

[Engrossed Substitute Senate Bill 5143]

COMMISSION ON PESTICIDE REGISTRATION—NAME AND MEMBERSHIP

AN ACT Relating to changing the name of and adding a member to the commission on pesticide registration; and amending RCW 15.92.090, 15.92.095, 15.92.100, 15.92.105, and 15.92.110.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 15.92.090 and 2011 1st sp.s. c 21 s 24 are each amended to read as follows:

(1) A commission on ((~~pesticide registration~~)) integrated pest management is established. The commission shall be composed of ((~~twelve~~)) 12 voting members appointed by the director as follows:

(a) Eight members from the following segments of the state's agricultural industry as nominated by a statewide private agricultural association or agricultural commodity commission formed under ((~~Title 15 RCW~~)) this title: (i) The tree fruit industry; (ii) hop growers; (iii) potato growers; (iv) wheat growers; (v) vegetable and seed growers; (vi) berry growers; (vii) wine grape growers; and (viii) the nursery and landscape industry. Although members are appointed from various segments of the agriculture industry, they are appointed to represent and advance the interests of the industry as a whole.

(b) One member from each of the following: (i) Forest protection industry; (ii) food processors; (iii) agricultural chemical industry; and (iv) professional pesticide applicators. One member shall be appointed for each such segment of the industry and shall be nominated by a statewide, private association of that segment of the industry. The representative of the agricultural chemical industry shall be involved in the manufacture of agricultural crop protection products.

The following shall be ex officio, nonvoting members of the commission: The coordinator of the interregional project number four at Washington State University; the director of the department of ecology or the director's designee; the director of the department of agriculture or the director's designee; the director of the department of labor and industries or the director's designee; ((~~and~~)) the secretary of the department of health or the secretary's designee; and a representative of the United States environmental protection agency, region 10, who has working knowledge of federal pesticide policy issues.

(2) Each voting member of the commission shall serve a term of three years. A vacancy shall be filled by appointment for the unexpired term in the same manner provided for an appointment to the full term. No member of the commission may be removed by the director during his or her term of office unless for cause of incapacity, incompetence, neglect of duty, or malfeasance in office. Each member of the commission shall receive travel expenses in accordance with RCW 43.03.050 and 43.03.060 for attending meetings of the commission and for performing special duties, in the way of official commission business, specifically assigned to the person by the commission. The voting members of the commission serve without compensation from the state other than such travel expenses.

(3) The commission shall elect a chair from among its voting members each calendar year. After its original organizational meeting, the commission shall meet at the call of the chair. A majority of the voting members of the

commission constitutes a quorum and an official action of the commission may be taken by a majority vote of the quorum.

Sec. 2. RCW 15.92.095 and 1999 c 247 s 2 are each amended to read as follows:

(1) This subsection applies to the use of state appropriations made to or legislatively intended for the commission on ((~~pesticide registration~~)) integrated pest management and to any other moneys appropriated by the state and received by the commission on ((~~pesticide registration~~)) integrated pest management:

(a) The moneys may not be expended without the express approval of the commission on ((~~pesticide registration~~)) integrated pest management;

(b) The moneys may be used for: (i) Evaluations, studies, or investigations approved by the commission on ((~~pesticide registration~~)) integrated pest management regarding the registration or reregistration of pesticides for minor crops or minor uses or regarding the availability of pesticides for emergency uses. These evaluations, studies, or investigations may be conducted by the food and environmental quality laboratory or may be secured by the commission from other qualified laboratories, researchers, or contractors by contract, which contracts may include, but are not limited to, those purchasing the use of proprietary information; (ii) evaluations, studies, or investigations approved by the commission regarding research, implementation, and demonstration of any aspect of integrated pest management and pesticide resistance management programs; (iii) the tracking system described in RCW 15.92.060; and (iv) the support of the commission on ((~~pesticide registration~~)) integrated pest management and its activities; and

(c) Not less than ((~~twenty five~~)) 25 percent of such moneys shall be dedicated to studies or investigations concerning the registration or use of pesticides for crops that are not among the top ((~~twenty~~)) 20 agricultural commodities in production value produced in the state, as determined annually by the Washington agricultural statistics service.

(2) The commission on ((~~pesticide registration~~)) integrated pest management shall establish priorities to guide it in approving the use of moneys for evaluations, studies, and investigations under this section. Each biennium, the commission shall prepare a contingency plan for providing funding for laboratory studies or investigations that are necessary to pesticide registrations or related processes that will address emergency conditions for agricultural crops that are not generally predicted at the beginning of the biennium.

Sec. 3. RCW 15.92.100 and 1999 c 247 s 3 are each amended to read as follows:

The commission on ((~~pesticide registration~~)) integrated pest management shall:

(1) Provide guidance to the food and environmental quality laboratory established in RCW 15.92.050 regarding the laboratory's studies, investigations, and evaluations concerning the registration of pesticides for use in this state for minor crops and minor uses and concerning the availability of pesticides for emergency uses;

(2) Encourage agricultural organizations to assist in providing funding, in-kind services, or materials for laboratory studies and investigations concerning

the registration of pesticides and research, implementation, and demonstration of any aspect of integrated pest management and pesticide resistance management programs for minor crops and minor uses that would benefit the organizations;

(3) Provide guidance to the laboratory regarding a program for: Tracking the availability of effective pesticides for minor crops, minor uses, and emergency uses; providing this information to organizations of agricultural producers; and maintaining close contact between the laboratory, the department of agriculture, and organizations of agricultural producers regarding the need for research to support the registration of pesticides for minor crops and minor uses and the availability of pesticides for emergency uses;

(4) Ensure that the activities of the commission and the laboratory are coordinated with the activities of other laboratories in the Pacific Northwest, the United States department of agriculture, and the United States environmental protection agency to maximize the effectiveness of regional efforts to assist in the registration of pesticides for minor crops and minor uses and in providing for the availability of pesticides for emergency uses for the region and the state; and

(5) Ensure that prior to approving any residue study that there is written confirmation of registrant support and willingness or ability to add the given minor crop to its label including any restrictions or guidelines the registrant intends to impose.

Sec. 4. RCW 15.92.105 and 1995 c 390 s 6 are each amended to read as follows:

By December 15, 2002, the commission on integrated pest management shall file with the legislature a report on the activities supported by the commission for the period beginning on July 23, 1995, and ending on December 1, 2002. The report shall include an identification of: The priorities that have been set by the commission; the state appropriations made to Washington State University that have been within the jurisdiction of the commission; the evaluations, studies, and investigations funded in whole or in part by such moneys and the registrations and uses of pesticides made possible in large part by those evaluations, studies, and investigations; the matching moneys, in-kind services, and materials provided by agricultural organizations for those evaluations, studies, and investigations; and the program or programs for tracking pesticide availability provided by the laboratory under the guidance of the commission and the means used for providing this information to organizations of agricultural producers.

During the regular session of the legislature in the year 2003, the appropriate committees of the house of representatives and senate shall evaluate the effectiveness of the commission in fulfilling its statutory responsibilities.

Sec. 5. RCW 15.92.110 and 1995 c 390 s 7 are each amended to read as follows:

The commission on ((~~pesticide registration~~)) integrated pest management, and Washington State University on behalf of the commission, may receive such gifts, grants, and endowments from public or private sources as may be used from time to time, in trust or otherwise, for the use and benefit of the commission and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments.

Passed by the Senate March 2, 2023.

Passed by the House March 24, 2023.
Approved by the Governor April 6, 2023.
Filed in Office of Secretary of State April 6, 2023.

CHAPTER 38

[Engrossed Substitute Senate Bill 5179]
DEATH WITH DIGNITY ACT—VARIOUS PROVISIONS

AN ACT Relating to increasing access to the provisions of the Washington death with dignity act; amending RCW 70.245.010, 70.245.020, 70.245.030, 70.245.040, 70.245.050, 70.245.060, 70.245.070, 70.245.080, 70.245.090, 70.245.100, 70.245.110, 70.245.120, 70.245.150, 70.245.180, 70.245.190, 70.245.220, and 70.41.520; adding a new section to chapter 70.245 RCW; and adding a new section to chapter 70.127 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 70.245.010 and 2009 c 1 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) "Adult" means an individual who is ((~~eighteen~~)) 18 years of age or older.

(2) "Attending ((~~physician~~)) qualified medical provider" means the ((~~physician~~)) qualified medical provider who has primary responsibility for the care of the patient and treatment of the patient's terminal disease.

(3) "Competent" means that, in the opinion of a court or in the opinion of the patient's attending ((~~physician or~~)) qualified medical provider, consulting ((~~physician~~)) qualified medical provider, psychiatrist, or psychologist, a patient has the ability to make and communicate an informed decision to health care providers, including communication through persons familiar with the patient's manner of communicating if those persons are available.

(4) "Consulting ((~~physician~~)) qualified medical provider" means a ((~~physician~~)) qualified medical provider who is qualified by specialty or experience to make a professional diagnosis and prognosis regarding the patient's disease.

(5) "Counseling" means one or more consultations as necessary between a state licensed psychiatrist ((~~or~~)), psychologist, independent clinical social worker, advanced social worker, mental health counselor, or psychiatric advanced registered nurse practitioner and a patient for the purpose of determining that the patient is competent and not suffering from a psychiatric or psychological disorder or depression causing impaired judgment.

(6) "Health care provider" means a person licensed, certified, or otherwise authorized or permitted by law to administer health care or dispense medication in the ordinary course of business or practice of a profession, and includes a health care facility.

(7) "Informed decision" means a decision by a qualified patient, to request and obtain a prescription for medication that the qualified patient may self-administer to end his or her life in a humane and dignified manner, that is based on an appreciation of the relevant facts and after being fully informed by the attending ((~~physician~~)) qualified medical provider of:

(a) His or her medical diagnosis;

(b) His or her prognosis;

(c) The potential risks associated with taking the medication to be prescribed;

(d) The probable result of taking the medication to be prescribed; and

(e) The feasible alternatives including, but not limited to, comfort care, hospice care, and pain control.

(8) "Medically confirmed" means the medical opinion of the attending ((~~physician~~)) qualified medical provider has been confirmed by a consulting ((~~physician~~)) qualified medical provider who has examined the patient and the patient's relevant medical records.

(9) "Patient" means a person who is under the care of ((~~a physician.~~

~~(10) "Physician" means a doctor of medicine or osteopathy licensed to practice medicine in the state of Washington.~~

~~(11)~~)) an attending qualified medical provider.

(10) "Qualified medical provider" means a physician licensed under chapter 18.57 or 18.71 RCW, a physician assistant licensed under chapter 18.71A RCW, or an advanced registered nurse practitioner licensed under chapter 18.79 RCW.

(11) "Qualified patient" means a competent adult who is a resident of Washington state and has satisfied the requirements of this chapter in order to obtain a prescription for medication that the qualified patient may self-administer to end his or her life in a humane and dignified manner.

(12) "Self-administer" means a qualified patient's act of ingesting medication to end his or her life in a humane and dignified manner.

(13) "Terminal disease" means an incurable and irreversible disease that has been medically confirmed and will, within reasonable medical judgment, produce death within six months.

NEW SECTION. **Sec. 2.** A new section is added to chapter 70.245 RCW to read as follows:

(1) Subject to the provisions in subsection (2) of this section, a qualified patient may select the attending or consulting qualified medical provider of the qualified patient's choosing.

(2)(a) If a qualified patient selects an attending qualified medical provider who is a licensed professional other than a physician, the qualified patient must select a physician to serve as the qualified patient's consulting qualified medical provider.

(b) A qualified patient may select a consulting qualified medical provider who is a licensed professional other than a physician, only if the qualified patient's attending qualified medical provider is a physician.

(c) The attending qualified medical provider and the consulting qualified medical provider selected by the qualified patient may not have a direct supervisory relationship with each other.

Sec. 3. RCW 70.245.020 and 2009 c 1 s 2 are each amended to read as follows:

(1) An adult patient who is competent, is a resident of Washington state, and has been determined by the attending ((~~physician and consulting physician~~)) qualified medical provider to be suffering from a terminal disease, and who has voluntarily expressed his or her wish to die, may make a written request for medication that the patient may self-administer to end ((~~his or her~~)) the patient's life in a humane and dignified manner in accordance with this chapter.

(2) A person does not qualify under this chapter solely because of age or disability.

Sec. 4. RCW 70.245.030 and 2009 c 1 s 3 are each amended to read as follows:

(1) A valid request for medication under this chapter shall be in substantially the form described in RCW 70.245.220, signed and dated by the patient and witnessed by at least two individuals who, in the presence of the patient, attest that to the best of their knowledge and belief the patient is competent, acting voluntarily, and is not being coerced to sign the request.

(2) One of the witnesses shall be a person who is not:

(a) A relative of the patient by blood((~~, marriage, or adoption~~)) or by law;

(b) A person who at the time the request is signed would be entitled to any portion of the estate of the qualified patient upon death under any will or by operation of law; or

(c) An owner, operator, or employee of a health care facility where the qualified patient is receiving medical treatment or is a resident.

(3) The patient's attending ((~~physician~~)) qualified medical provider at the time the request is signed shall not be a witness.

(((~~(4) If the patient is a patient in a long-term care facility at the time the written request is made, one of the witnesses shall be an individual designated by the facility and having the qualifications specified by the department of health by rule.~~)))

Sec. 5. RCW 70.245.040 and 2009 c 1 s 4 are each amended to read as follows:

(1) The attending ((~~physician~~)) qualified medical provider shall:

(a) Make the ((~~initial~~)) determination of whether a patient has a terminal disease, is competent, and has made the request voluntarily;

(b) Request that the patient demonstrate Washington state residency under RCW 70.245.130;

(c) To ensure that the patient is making an informed decision, inform the patient of:

(i) ((~~His or her~~)) The patient's medical diagnosis;

(ii) ((~~His or her~~)) The patient's prognosis;

(iii) The potential risks associated with taking the medication to be prescribed;

(iv) The probable result of taking the medication to be prescribed; and

(v) The feasible alternatives including, but not limited to, comfort care, hospice care, and pain control;

(d) Refer the patient to a consulting ((~~physician~~)) qualified medical provider for medical confirmation of the diagnosis, and for a determination that the patient is competent and acting voluntarily;

(e) Refer the patient for counseling if appropriate under RCW 70.245.060;

(f) Recommend that the patient notify next of kin;

(g) Counsel the patient about the importance of having another person present when the patient takes the medication prescribed under this chapter and of not taking the medication in a public place;

(h) Inform the patient that he or she has an opportunity to rescind the request at any time and in any manner, and offer the patient an opportunity to rescind at the end of the ((~~fifteen-day~~)) relevant waiting period under RCW 70.245.090;

(i) Verify, immediately before writing the prescription for medication under this chapter, that the patient is making an informed decision;

(j) Fulfill the medical record documentation requirements of RCW 70.245.120;

(k) Ensure that all appropriate steps are carried out in accordance with this chapter before writing a prescription for medication to enable a qualified patient to end his or her life in a humane and dignified manner; and

(l)(i) Dispense medications directly, including ancillary medications intended to facilitate the desired effect to minimize the patient's discomfort, if the attending ((~~physician~~)) qualified medical provider is authorized under statute and rule to dispense and has a current drug enforcement administration certificate; or

(ii) ((~~With the patient's written consent:~~)) (A) Contact a pharmacist and inform the pharmacist of the prescription; and

(B) Deliver the written prescription personally, by mail ((~~or~~)), facsimile, or electronically to the pharmacist, who will dispense the medications directly to either the patient, the attending ((~~physician~~)) qualified medical provider, or ((~~an expressly identified agent of the patient. Medications dispensed pursuant to this subsection shall not be dispensed by mail or other form of courier~~)) another person as requested by the qualified patient.

(2) The attending ((~~physician~~)) qualified medical provider may sign the patient's death certificate which shall list the underlying terminal disease as the cause of death.

(3) Delivery of the dispensed drug to the qualified patient, the attending qualified medical provider, or another person as requested by the qualified patient may be made only:

(a) By personal delivery, messenger service, or the United States postal service or a similar private parcel delivery entity; and

(b) Upon the receipt of the signature of the addressee or an authorized person at the time of delivery by an entity listed in (a) of this subsection.

Sec. 6. RCW 70.245.050 and 2009 c 1 s 5 are each amended to read as follows:

Before a patient is qualified under this chapter, a consulting ((~~physician~~)) qualified medical provider shall examine the patient and his or her relevant medical records and confirm, in writing, the attending ((~~physician's~~)) qualified medical provider's diagnosis that the patient is suffering from a terminal disease, and verify that the patient is competent, is acting voluntarily, and has made an informed decision.

Sec. 7. RCW 70.245.060 and 2009 c 1 s 6 are each amended to read as follows:

If, in the opinion of either the attending ((~~physician~~)) qualified medical provider or the consulting ((~~physician~~)) qualified medical provider, a patient may be suffering from a psychiatric or psychological disorder or depression causing impaired judgment, ((~~either physician~~)) the qualified medical provider shall refer the patient for counseling. Medication to end a patient's life in a

humane and dignified manner shall not be prescribed until the person performing the counseling determines that the patient is not suffering from a psychiatric or psychological disorder or depression causing impaired judgment.

Sec. 8. RCW 70.245.070 and 2009 c 1 s 7 are each amended to read as follows:

A person shall not receive a prescription for medication to end his or her life in a humane and dignified manner unless he or she has made an informed decision. Immediately before writing a prescription for medication under this chapter, the attending ((~~physician~~)) qualified medical provider shall verify that the qualified patient is making an informed decision.

Sec. 9. RCW 70.245.080 and 2009 c 1 s 8 are each amended to read as follows:

The attending ((~~physician~~)) qualified medical provider shall recommend that the patient notify the next of kin of his or her request for medication under this chapter. A patient who declines or is unable to notify next of kin shall not have his or her request denied for that reason.

Sec. 10. RCW 70.245.090 and 2009 c 1 s 9 are each amended to read as follows:

(1) To receive a prescription for medication that the qualified patient may self-administer to end his or her life in a humane and dignified manner, a qualified patient shall have made an oral request and a written request, and reiterate the oral request to his or her attending ((~~physician~~)) qualified medical provider at least ((~~fifteen~~)) seven days after making the initial oral request.

(2) At the time the qualified patient makes his or her second oral request, the attending ((~~physician~~)) qualified medical provider shall offer the qualified patient an opportunity to rescind the request.

(3) A transfer of care or medical records does not restart any waiting period under this section.

Sec. 11. RCW 70.245.100 and 2009 c 1 s 10 are each amended to read as follows:

A patient may rescind his or her request at any time and in any manner without regard to his or her mental state. No prescription for medication under this chapter may be written without the attending ((~~physician~~)) qualified medical provider offering the qualified patient an opportunity to rescind the request.

Sec. 12. RCW 70.245.110 and 2009 c 1 s 11 are each amended to read as follows:

(((~~(1)~~))) At least ((~~fifteen~~)) seven days shall elapse between the patient's initial oral request and the writing of a prescription under this chapter((~~.~~

~~(2) At least forty-eight hours shall elapse between the date the patient signs the written request and the writing of a prescription under this chapter~~)).

Sec. 13. RCW 70.245.120 and 2009 c 1 s 12 are each amended to read as follows:

The following shall be documented or filed in the patient's medical record:

(1) All oral requests by a patient for medication to end his or her life in a humane and dignified manner;

(2) All written requests by a patient for medication to end his or her life in a humane and dignified manner;

(3) The attending ((~~physician's~~)) qualified medical provider's diagnosis and prognosis, and determination that the patient is competent, is acting voluntarily, and has made an informed decision;

(4) The consulting ((~~physician's~~)) qualified medical provider's diagnosis and prognosis, and verification that the patient is competent, is acting voluntarily, and has made an informed decision;

(5) A report of the outcome and determinations made during counseling, if performed;

(6) The attending ((~~physician's~~)) qualified medical provider's offer to the patient to rescind his or her request at the time of the patient's second oral request under RCW 70.245.090; and

(7) A note by the attending ((~~physician~~)) qualified medical provider indicating that all requirements under this chapter have been met and indicating the steps taken to carry out the request, including a notation of the medication prescribed.

Sec. 14. RCW 70.245.150 and 2009 c 1 s 15 are each amended to read as follows:

(1)(a) The department of health shall annually review all records maintained under this chapter.

(b) The department of health shall require any health care provider upon writing a prescription or dispensing medication under this chapter to file a copy of the dispensing record and such other administratively required documentation with the department. All administratively required documentation shall be transmitted electronically, mailed, or otherwise transmitted as allowed by department of health rule to the department no later than ((~~thirty~~)) 30 calendar days after the writing of a prescription and dispensing of medication under this chapter, except that all documents required to be filed with the department by the prescribing ((~~physician~~)) qualified medical provider after the death of the patient shall be transmitted electronically, mailed, or faxed no later than ((~~thirty~~)) 30 calendar days after the date of death of the patient. In the event that anyone required under this chapter to report information to the department of health provides an inadequate or incomplete report, the department shall contact the person to request a complete report.

(2) The department of health shall adopt rules to facilitate the collection of information regarding compliance with this chapter. Except as otherwise required by law, the information collected is not a public record and may not be made available for inspection by the public.

(3) The department of health shall generate and make available to the public an annual statistical report of information collected under subsection (2) of this section.

Sec. 15. RCW 70.245.180 and 2009 c 1 s 18 are each amended to read as follows:

(1) Nothing in this chapter authorizes ((~~a physician~~)) an attending qualified medical provider, consulting qualified medical provider, or any other person to end a patient's life by lethal injection, mercy killing, or active euthanasia. Actions taken in accordance with this chapter do not, for any purpose, constitute suicide, assisted suicide, mercy killing, or homicide, under the law. State reports shall not refer to practice under this chapter as "suicide" or "assisted suicide."

Consistent with RCW 70.245.010 (7), (11), and (12), 70.245.020(1), 70.245.040(1)(k), 70.245.060, 70.245.070, 70.245.090, 70.245.120 (1) and (2), 70.245.160 (1) and (2), 70.245.170, 70.245.190(1) (a) and (d), and 70.245.200(2), state reports shall refer to practice under this chapter as obtaining and self-administering life-ending medication.

(2) Nothing contained in this chapter shall be interpreted to lower the applicable standard of care for the attending ((~~physician~~)) qualified medical provider, consulting ((~~physician~~)) qualified medical provider, psychiatrist or psychologist, or other health care provider participating under this chapter.

Sec. 16. RCW 70.245.190 and 2009 c 1 s 19 are each amended to read as follows:

(1) Except as provided in RCW 70.245.200 and subsection (2) of this section:

(a) A person shall not be subject to civil or criminal liability or professional disciplinary action for participating in good faith compliance with this chapter. This includes being present when a qualified patient takes the prescribed medication to end his or her life in a humane and dignified manner;

(b) A professional organization or association, or health care provider, may not subject a person to censure, discipline, suspension, loss of license, loss of privileges, loss of membership, or other penalty for participating or refusing to participate in good faith compliance with this chapter;

(c) A patient's request for or provision by an attending ((~~physician~~)) qualified medical provider of medication in good faith compliance with this chapter does not constitute neglect for any purpose of law or provide the sole basis for the appointment of a guardian or conservator; and

(d) Only willing health care providers shall participate in the provision to a qualified patient of medication to end his or her life in a humane and dignified manner. If a health care provider is unable or unwilling to carry out a patient's request under this chapter, and the patient transfers his or her care to a new health care provider, the prior health care provider shall transfer, upon request, a copy of the patient's relevant medical records to the new health care provider.

(2)(a) A health care provider may prohibit another health care provider from participating under chapter 1, Laws of 2009 on the premises of the prohibiting provider if the prohibiting provider has given notice to all health care providers with privileges to practice on the premises and to the general public of the prohibiting provider's policy regarding participating under chapter 1, Laws of 2009. A health care provider may not, by contract or other form of agreement, prohibit another health care provider from participating under chapter 1, Laws of 2009 while acting outside the course and scope of the provider's capacity as an employee or independent contractor of the prohibiting health care provider and while at a location that is not on the prohibiting health care provider's premises and not on property that is owned by, leased by, or under the direct control of the prohibiting health care provider. This subsection does not prevent a health care provider from providing health care services to a patient that do not constitute participation under chapter 1, Laws of 2009.

(b) A health care provider may subject another health care provider to the sanctions stated in this subsection if the sanctioning health care provider has notified the sanctioned provider before participation in chapter 1, Laws of 2009 that it prohibits participation in chapter 1, Laws of 2009:

(i) Loss of privileges, loss of membership, or other sanctions provided under the medical staff bylaws, policies, and procedures of the sanctioning health care provider if the sanctioned provider is a member of the sanctioning provider's medical staff and participates in chapter 1, Laws of 2009 while on the health care facility premises of the sanctioning health care provider, but not including the private medical office of a ((~~physician~~)) qualified medical provider or other provider;

(ii) Termination of a lease or other property contract or other nonmonetary remedies provided by a lease contract, not including loss or restriction of medical staff privileges or exclusion from a provider panel, if the sanctioned provider participates in chapter 1, Laws of 2009 while on the premises of the sanctioning health care provider or on property that is owned by or under the direct control of the sanctioning health care provider; or

(iii) Termination of a contract or other nonmonetary remedies provided by contract if the sanctioned provider participates in chapter 1, Laws of 2009 while acting in the course and scope of the sanctioned provider's capacity as an employee or independent contractor of the sanctioning health care provider. Nothing in this subsection (2)(b)(iii) prevents:

(A) A health care provider from participating in chapter 1, Laws of 2009 while acting outside the course and scope of the provider's capacity as an employee or independent contractor and while at a location that is not on the sanctioning health care provider's facility premises and is not on property that is owned by, leased by, or under the direct control of the sanctioning health care provider; or

(B) A patient from contracting with his or her attending ((~~physician~~)) qualified medical provider and consulting ((~~physician~~)) qualified medical provider to act outside the course and scope of the provider's capacity as an employee or independent contractor of the sanctioning health care provider and while at a location that is not on the sanctioning health care provider's facility premises and is not on property that is owned by, leased by, or under the direct control of the sanctioning health care provider.

(c) A health care provider that imposes sanctions under (b) of this subsection shall follow all due process and other procedures the sanctioning health care provider may have that are related to the imposition of sanctions on another health care provider.

(d) For the purposes of this subsection:

(i) "Notify" means a separate statement in writing to the health care provider specifically informing the health care provider before the provider's participation in chapter 1, Laws of 2009 of the sanctioning health care provider's policy about participation in activities covered by this chapter.

(ii) "Participate in chapter 1, Laws of 2009" means to perform the duties of an attending ((~~physician~~)) qualified medical provider under RCW 70.245.040, the consulting ((~~physician~~)) qualified medical provider function under RCW 70.245.050, or the counseling function under RCW 70.245.060. "Participate in chapter 1, Laws of 2009" does not include:

(A) Making an initial determination that a patient has a terminal disease and informing the patient of the medical prognosis;

(B) Providing information about the Washington death with dignity act to a patient upon the request of the patient;

(C) Charting a patient's first request, as referenced in RCW 70.245.020, to services as provided in chapter 1, Laws of 2009;

(D) Providing a patient, upon the request of the patient, with a referral to another ((~~physician~~)) attending or consulting qualified medical provider; or

(((~~D~~))) (E) A patient contracting with his or her attending ((~~physician~~)) qualified medical provider and consulting ((~~physician~~)) qualified medical provider to act outside of the course and scope of the provider's capacity as an employee or independent contractor of the sanctioning health care provider.

(3) Suspension or termination of staff membership or privileges under subsection (2) of this section is not reportable under RCW 18.130.070. Action taken under RCW 70.245.030, 70.245.040, 70.245.050, or 70.245.060 may not be the sole basis for a report of unprofessional conduct under RCW 18.130.180.

(4) References to "good faith" in subsection (1)(a), (b), and (c) of this section do not allow a lower standard of care for health care providers in the state of Washington.

Sec. 17. RCW 70.245.220 and 2009 c 1 s 22 are each amended to read as follows:

A request for a medication as authorized by this chapter shall be in substantially the following form:

REQUEST FOR MEDICATION TO END MY LIFE IN A ((~~HUMAN [HUMANE]~~)) HUMANE AND DIGNIFIED MANNER

I, ..., am an adult of sound mind.

I am suffering from . . . . . ., which my attending ((~~physician~~)) qualified medical provider has determined is a terminal disease ((~~and which has been medically confirmed by a consulting physician~~)) that will result in death within six months.

I have been fully informed of my diagnosis, prognosis, the nature of medication to be prescribed and potential associated risks, the expected result, and the feasible alternatives, including comfort care, hospice care, and pain control.

I request that my attending ((~~physician~~)) qualified medical provider prescribe medication that I may self-administer to end my life in a humane and dignified manner and to contact any pharmacist to fill the prescription.

INITIAL ONE:

. . . . . I have informed my family of my decision and taken their opinions into consideration.

. . . . . I have decided not to inform my family of my decision.

. . . . . I have no family to inform of my decision.

I understand that I have the right to rescind this request at any time.

I understand the full import of this request and I expect to die when I take the medication to be prescribed. I further understand that although most deaths occur within three hours, my death may take longer and my ((~~physician~~)) qualified medical provider has counseled me about this possibility.

I make this request voluntarily and without reservation, and I accept full moral responsibility for my actions.

Signed: . . . . . .

Dated: . . . . . .

DECLARATION OF WITNESSES

By initialing and signing below on or after the date the person named above signs, we declare that the person making and signing the above request:

Witness 1 Initials	Witness 2 Initials	
. . . . .	. . . . .	1. Is personally known to us or has provided proof of identity;
. . . . .	. . . . .	2. Signed this request in our presence on the date of the person's signature;
. . . . .	. . . . .	3. Appears to be of sound mind and not under duress, fraud, or undue influence;
. . . . .	. . . . .	4. Is not a patient for whom either of us is the attending ((~~physician~~)) qualified medical provider.

Printed Name of Witness 1:. . . . . .

Signature of Witness 1/Date:. . . . . .

Printed Name of Witness 2:. . . . . .

Signature of Witness 2/Date:. . . . . .

NOTE: One witness shall not be a relative by blood, marriage, or adoption of the person signing this request, shall not be entitled to any portion of the person's estate upon death, and shall not own, operate, or be employed at a health care facility where the person is a patient or resident. ((~~If the patient is an inpatient at a health care facility, one of the witnesses shall be an individual designated by the facility.~~))

Sec. 18. RCW 70.41.520 and 2019 c 399 s 4 are each amended to read as follows:

(1) ((~~By September 1, 2019, every~~)) Every hospital must submit to the department its policies related to access to care regarding:

(a) Admission;

(b) End-of-life care and the death with dignity act, chapter 70.245 RCW;

(c) Nondiscrimination; and

(((~~c~~))) (d) Reproductive health care.

(2) The department shall post a copy of the policies received under subsection (1) of this section on its website.

(3) If a hospital makes changes to any of the policies listed under subsection (1) of this section, it must submit a copy of the changed policy to the department within thirty days after the hospital approves the changes.

(4) A hospital must post a copy of the policies provided to the department under subsection (1) of this section and the forms required under subsection (5) of this section to the hospital's own website in a location where the policies are readily accessible to the public without a required login or other restriction.

(5) ((~~By September 1, 2019, the~~)) (a) The department shall, in consultation with stakeholders including a hospital association and patient advocacy groups, develop ((~~a~~)) two simple and clear forms to be submitted by hospitals along with the policies required in subsection (1) of this section. ((~~The~~)) One form must provide the public with specific information about which reproductive health care services are and are not generally available at each hospital. The other form must provide the public with specific information about which end-of-life services are and are not generally available at each hospital. Each form must include contact information for the hospital in case patients have specific questions about services available at the hospital.

(b) The department shall provide the form required in this subsection related to end-of-life care and the death with dignity act, chapter 70.245 RCW, by November 1, 2023. Hospitals shall submit the completed form to the department within 60 days of the form being provided.

NEW SECTION. **Sec. 19.** A new section is added to chapter 70.127 RCW to read as follows:

(1) Every agency or facility providing hospice services as defined in RCW 70.127.010 shall submit to the department of health its policies related to access to care regarding end-of-life care and this chapter. The information shall include: (a) A section for the public with specific information about which end-of-life services are and are not generally available at each agency or facility; and (b) the contact information for the agency or facility in case patients have specific questions about services available at the hospice.

(2) If an agency or facility providing hospice services as defined in RCW 70.127.010 makes changes to any of the policies listed under subsection (1) of this section, it shall submit a copy of the changed policy to the department of health within 30 days after the agency or facility approves the changes.

(3) A copy of the policies provided to the department of health under subsection (1) of this section must be posted to the website of each agency or facility providing hospice services as defined in RCW 70.127.010 in a location where the policies are readily accessible to the public without a required login or other restriction.

Passed by the Senate February 27, 2023.

Passed by the House March 24, 2023.

Approved by the Governor April 6, 2023.

Filed in Office of Secretary of State April 6, 2023.

CHAPTER 39

[Senate Bill 5192]

DERELICT VESSEL APPEALS—ADMINISTRATIVE LAW JUDGE SUBSTITUTION

AN ACT Relating to authorizing administrative law judges to substitute for pollution control hearings board members in deciding derelict vessel appeals; and amending RCW 79.100.120.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 79.100.120 and 2014 c 195 s 602 are each amended to read as follows:

(1)(a) An owner or lienholder seeking to contest an authorized public entity's decision to take temporary possession or custody of a vessel under this chapter, or to contest the amount of reimbursement owed to an authorized public entity under this chapter, may request a hearing in accordance with this section.

(b) A transferor or other entity with secondary liability under this chapter or RCW 88.26.030 may commence a lawsuit in the superior court for the county in which custody of the vessel was taken to contest the transferor's or other entity's liability or the amount of reimbursement owed the authorized public entity under this chapter.

(2)(a) If the contested decision or action was undertaken by a state agency, a written request for a hearing related to the decision or action must be filed with the pollution control hearings board and served on the state agency in accordance with RCW 43.21B.230 (2) and (3) within ((~~thirty~~)) 30 days of the date the authorized public entity acquires custody of the vessel under RCW 79.100.040, or if the vessel is redeemed before the authorized public entity acquires custody, the date of redemption, or the right to a hearing is deemed waived and the vessel's owner is liable for any costs owed the authorized public entity. In the event of litigation, the prevailing party is entitled to reasonable attorneys' fees and costs.

(b) Upon receipt of a timely hearing request, the pollution control hearings board shall proceed to hear and determine the validity of the decision to take the vessel into temporary possession or custody and the reasonableness of any towing, storage, or other charges permitted under this chapter. Within five business days after the request for a hearing is filed, the pollution control hearings board shall notify the vessel owner requesting the hearing and the authorized public entity of the date, time, and location for the hearing. Unless the vessel is redeemed before the request for hearing is filed, the pollution control hearings board shall set the hearing on a date that is within ((~~ten~~)) 10 business days of the filing of the request for hearing. If the vessel is redeemed before the request for a hearing is filed, the pollution control hearings board shall set the hearing on a date that is within ((~~sixty~~)) 60 days of the filing of the request for hearing.

(c) Consistent with RCW 43.21B.305, a proceeding brought under this subsection may be heard by one member of the pollution control hearings board, whose decision is the final decision of the board. An administrative law judge employed by the pollution control hearings board may be substituted for a board member under this section.

(3)(a) If the contested decision or action was undertaken by a metropolitan park district, port district, city, town, or county, which has adopted rules or procedures for contesting decisions or actions pertaining to derelict or

abandoned vessels, those rules or procedures must be followed in order to contest a decision to take temporary possession or custody of a vessel, or to contest the amount of reimbursement owed.

(b) If the metropolitan park district, port district, city, town, or county has not adopted rules or procedures for contesting decisions or actions pertaining to derelict or abandoned vessels, then an owner or lienholder requesting a hearing under this section must follow the procedure established in subsection (2) of this section.

Passed by the Senate February 15, 2023.
Passed by the House March 24, 2023.
Approved by the Governor April 6, 2023.
Filed in Office of Secretary of State April 6, 2023.

CHAPTER 40

[Engrossed Second Substitute Senate Bill 5198]

MANUFACTURED/MOBILE HOME COMMUNITIES—CLOSURE OR CONVERSION

AN ACT Relating to the sale or lease of manufactured/mobile home communities and the property on which they sit; amending RCW 59.20.060, 59.20.073, 59.20.080, 59.20.300, 59.20.305, and 59.21.040; reenacting and amending RCW 59.20.030; adding new sections to chapter 59.20 RCW; creating a new section; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature finds that:

(a) Manufactured/mobile homes provide a significant source of homeownership opportunities for Washington state residents. However, the increasing number of closures and conversions to other uses of manufactured housing communities and mobile home parks, combined with low vacancy rates in existing parks and communities and the extremely high cost of moving homes when these parks and communities close, make this type of affordable housing option increasingly insecure for the tenants who reside in these parks and communities.

(b) Many tenants who reside in these parks and communities are senior citizens or low-income households and are, therefore, the residents most in need of reasonable security or permanency in the siting of their home because of the adverse impacts on the health, safety, and welfare of tenants forced to move due to closure or conversion to another use of the manufactured housing community or mobile home park.

(2) It is the intent of the legislature to encourage and facilitate the preservation of existing manufactured/mobile home communities in the event of voluntary sales of the manufactured/mobile home communities and, to the extent necessary and possible, involve manufactured/mobile home community tenants or an eligible organization, such as a nonprofit organization, housing authority, community land trust, resident nonprofit cooperative, or local government, in the preservation of manufactured/mobile home communities.

(3) The legislature further finds that when the sale of a manufactured/mobile home park to the community tenants or an eligible organization is not possible, a minimum notification period of two years before the closure or conversion of a community or park is a reasonable balancing of the rights and interests of both

community and park owners and the manufactured/mobile home owners, unless the owners justly compensate the homeowners for the loss of their homes.

Sec. 2. RCW 59.20.030 and 2019 c 342 s 1 and 2019 c 23 s 4 are each reenacted and amended to read as follows:

For purposes of this chapter:

(1) "Abandoned" as it relates to a mobile home, manufactured home, or park model owned by a tenant in a mobile home park, mobile home park cooperative, or mobile home park subdivision or tenancy in a mobile home lot means the tenant has defaulted in rent and by absence and by words or actions reasonably indicates the intention not to continue tenancy;

(2) "Active duty" means service authorized by the president of the United States, the secretary of defense, or the governor for a period of more than thirty consecutive days;

(3) "Community land trust" means a private, nonprofit, community-governed, and/or membership corporation whose mission is to acquire, hold, develop, lease, and steward land for making homes, farmland, gardens, businesses, and other community assets permanently affordable for current and future generations. A community land trust's bylaws prescribe that the governing board is comprised of individuals who reside in the community land trust's service area, one-third of whom are currently, or could be, community land trust leaseholders;

(4) "Eligible organization" includes community land trusts, resident nonprofit cooperatives, local governments, local housing authorities, nonprofit community or neighborhood-based organizations, federally recognized Indian tribes in the state of Washington, and regional or statewide nonprofit housing assistance organizations;

(((~~(4)~~))) (5) "Housing and low-income assistance organization" means an organization that provides tenants living in mobile home parks, manufactured housing communities, and manufactured/mobile home communities with information about their rights and other pertinent information;

(((~~(5)~~))) (6) "Housing authority" or "authority" means any of the public body corporate and politic created in RCW 35.82.030;

(((~~(6)~~))) (7) "Landlord" or "owner" means the owner of a mobile home park and includes the agents of ((~~a landlord~~)) the owner;

(((~~(7)~~))) (8) "Local government" means a town government, city government, code city government, or county government in the state of Washington;

(((~~(8)~~))) (9) "Manufactured home" means a single-family dwelling built according to the United States department of housing and urban development manufactured home construction and safety standards act, which is a national preemptive building code. A manufactured home also: (a) Includes plumbing, heating, air conditioning, and electrical systems; (b) is built on a permanent chassis; and (c) can be transported in one or more sections with each section at least eight feet wide and ((~~forty~~)) 40 feet long when transported, or when installed on the site is three hundred twenty square feet or greater;

(((~~(9)~~))) (10) "Manufactured/mobile home" means either a manufactured home or a mobile home;

(((~~(10)~~))) (11) "Mobile home" means a factory-built dwelling built prior to June 15, 1976, to standards other than the United States department of housing and urban development code, and acceptable under applicable state codes in

effect at the time of construction or introduction of the home into the state. Mobile homes have not been built since the introduction of the United States department of housing and urban development manufactured home construction and safety act;

(((~~(11)~~))) (12) "Mobile home lot" means a portion of a mobile home park or manufactured housing community designated as the location of one mobile home, manufactured home, or park model and its accessory buildings, and intended for the exclusive use as a primary residence by the occupants of that mobile home, manufactured home, or park model;

(((~~(12)~~))) (13) "Mobile home park cooperative" or "manufactured housing cooperative" means real property consisting of common areas and two or more lots held out for placement of mobile homes, manufactured homes, or park models in which both the individual lots and the common areas are owned by an association of shareholders which leases or otherwise extends the right to occupy individual lots to its own members;

(((~~(13)~~))) (14) "Mobile home park subdivision" or "manufactured housing subdivision" means real property, whether it is called a subdivision, condominium, or planned unit development, consisting of common areas and two or more lots held for placement of mobile homes, manufactured homes, or park models in which there is private ownership of the individual lots and common, undivided ownership of the common areas by owners of the individual lots;

(((~~(14)~~))) (15) "Mobile home park," "manufactured housing community," or "manufactured/mobile home community" means any real property which is rented or held out for rent to others for the placement of two or more mobile homes, manufactured homes, or park models for the primary purpose of production of income, except where such real property is rented or held out for rent for seasonal recreational purpose only and is not intended for year-round occupancy;

(((~~(15)~~))) (16) "Notice of opportunity to compete to purchase" means a notice required under section 8 of this act;

(17) "Notice of sale" means a notice required under RCW 59.20.300 to be delivered to all tenants of a manufactured/mobile home community and other specified parties within ((~~fourteen~~)) 14 days after the date on which any advertisement, ((~~multiple~~)) listing, or public or private notice ((~~advertises~~)) is first made advertising that a manufactured/mobile home community or the property on which it sits is for sale or lease. A delivered notice of opportunity to compete to purchase acts as a notice of sale;

(((~~(16)~~))) (18) "Occupant" means any person, including a live-in care provider, other than a tenant, who occupies a mobile home, manufactured home, or park model and mobile home lot;

(((~~(17)~~))) (19) "Orders" means written official military orders, or any written notification, certification, or verification from the service member's commanding officer, with respect to the service member's current or future military status;

(((~~(18)~~))) (20) "Park model" means a recreational vehicle intended for permanent or semi-permanent installation and is used as a primary residence;

(((~~(19)~~))) (21) "Permanent change of station" means: (a) Transfer to a unit located at another port or duty station; (b) change of a unit's home port or

permanent duty station; (c) call to active duty for a period not less than ((~~ninety~~)) 90 days; (d) separation; or (e) retirement;

((~~(20)~~)) (22) "Qualified sale of manufactured/mobile home community" means the sale, as defined in RCW 82.45.010, of land and improvements comprising a manufactured/mobile home community that is transferred in a single purchase to a qualified tenant organization or to an eligible organization for the purpose of preserving the property as a manufactured/mobile home community;

((~~(21)~~)) (23) "Qualified tenant organization" means a formal organization of tenants within a manufactured/mobile home community, with the only requirement for membership consisting of being a tenant. If a majority of the tenants, based on home sites within the manufactured/mobile home community, agree that they want to preserve the manufactured/mobile home community then they will appoint a spokesperson to represent the wishes of the qualified tenant organization to the landlord and the landlord's representative;

((~~(22)~~)) (24) "Recreational vehicle" means a travel trailer, motor home, truck camper, or camping trailer that is primarily designed and used as temporary living quarters, is either self-propelled or mounted on or drawn by another vehicle, is transient, is not occupied as a primary residence, and is not immobilized or permanently affixed to a mobile home lot;

((~~(23)~~)) (25) "Resident nonprofit cooperative" means a nonprofit cooperative corporation formed by a group of manufactured/mobile home community residents for the purpose of acquiring the manufactured/mobile home community in which they reside and converting the manufactured/mobile home community to a mobile home park cooperative or manufactured housing cooperative;

(26) "Service member" means an active member of the United States armed forces, a member of a military reserve component, or a member of the national guard who is either stationed in or a resident of Washington state;

((~~(24)~~)) (27) "Tenant" means any person, except a transient, who rents a mobile home lot;

((~~(25)~~)) (28) "Transient" means a person who rents a mobile home lot for a period of less than one month for purposes other than as a primary residence.

Sec. 3. RCW 59.20.060 and 2022 c 95 s 4 are each amended to read as follows:

(1) Any mobile home space tenancy regardless of the term, shall be based upon a written rental agreement, signed by the parties, which shall contain:

(a) The terms for the payment of rent, including time and place, and any additional charges to be paid by the tenant. Additional charges that occur less frequently than monthly shall be itemized in a billing to the tenant;

(b) Reasonable rules for guest parking which shall be clearly stated;

(c) The rules and regulations of the park;

(d) The name and address of the person who is the landlord, and if such person does not reside in the state there shall also be designated by name and address a person who resides in the county where the mobile home park is located who is authorized to act as agent for the purposes of service of notices and process. If no designation is made of a person to act as agent, then the person to whom rental payments are to be made shall be considered the agent;

(e) The name and address of any party who has a secured interest in the mobile home, manufactured home, or park model;

(f) A forwarding address of the tenant or the name and address of a person who would likely know the whereabouts of the tenant in the event of an emergency or an abandonment of the mobile home, manufactured home, or park model;

(g)(((~~(i) A covenant by the landlord that, except for acts or events beyond the control of the landlord, the mobile home park will not be converted to a land use that will prevent the space that is the subject of the lease from continuing to be used for its intended use for a period of three years after the beginning of the term of the rental agreement;~~

~~(ii)~~)) A ((~~rental agreement may, in the alternative, contain a~~)) statement that: "The park may be sold or otherwise transferred at any time with the result that subsequent owners may close the mobile home park, or that the landlord may close the park at any time after the required closure notice as provided in RCW 59.20.080." The ((~~covenant or~~)) statement required by this subsection must: (((~~(A)~~))) (i) Appear in print that is in boldface and is larger than the other text of the rental agreement; (((~~(B)~~))) (ii) be set off by means of a box, blank space, or comparable visual device; and (((~~(C)~~))) (iii) be located directly above the tenant's signature on the rental agreement;

(h) A copy of a closure notice, as required in RCW 59.20.080, if such notice is in effect;

(i) The terms and conditions under which any deposit or portion thereof may be withheld by the landlord upon termination of the rental agreement if any moneys are paid to the landlord by the tenant as a deposit or as security for performance of the tenant's obligations in a rental agreement;

(j) A listing of the utilities, services, and facilities which will be available to the tenant during the tenancy and the nature of the fees, if any, to be charged together with a statement that, in the event any utilities are changed to be charged independent of the rent during the term of the rental agreement, the landlord agrees to decrease the amount of the rent charged proportionately;

(k) A written description, picture, plan, or map of the boundaries of a mobile home space sufficient to inform the tenant of the exact location of the tenant's space in relation to other tenants' spaces;

(l) A written description, picture, plan, or map of the location of the tenant's responsibility for utility hook-ups, consistent with RCW 59.20.130(6);

(m) A statement of the current zoning of the land on which the mobile home park is located;

(n) A statement of the expiration date of any conditional use, temporary use, or other land use permit subject to a fixed expiration date that is necessary for the continued use of the land as a mobile home park; and

(o) A written statement containing accurate historical information regarding the past five years' rental amount charged for the lot or space.

(2) Any rental agreement executed between the landlord and tenant shall not contain any provision:

(a) Which allows the landlord to charge a fee for guest parking unless a violation of the rules for guest parking occurs: PROVIDED, That a fee may be charged for guest parking which covers an extended period of time as defined in the rental agreement;

(b) Which authorizes the towing or impounding of a vehicle except upon notice to the owner thereof or the tenant whose guest is the owner of the vehicle;

(c) Which allows the landlord to alter the due date for rent payment or increase the rent: (i) During the term of the rental agreement if the term is less than two years, or (ii) more frequently than annually if the initial term is for two years or more: PROVIDED, That a rental agreement may include an escalation clause for a pro rata share of any increase in the mobile home park's real property taxes or utility assessments or charges, over the base taxes or utility assessments or charges of the year in which the rental agreement took effect, if the clause also provides for a pro rata reduction in rent or other charges in the event of a reduction in real property taxes or utility assessments or charges, below the base year: PROVIDED FURTHER, That a rental agreement for a term exceeding two years may provide for annual increases in rent in specified amounts or by a formula specified in such agreement. Any rent increase authorized under this subsection (2)(c) that occurs within the closure notice period pursuant to RCW 59.20.080(1)(e) may not be more than one percentage point above the United States consumer price index for all urban consumers, housing component, published by the United States bureau of labor statistics in the periodical "Monthly Labor Review and Handbook of Labor Statistics" as established annually by the department of commerce;

(d) By which the tenant agrees to waive or forego rights or remedies under this chapter;

(e) Allowing the landlord to charge an "entrance fee" or an "exit fee." However, an entrance fee may be charged as part of a continuing care contract as defined in RCW 70.38.025;

(f) Which allows the landlord to charge a fee for guests: PROVIDED, That a landlord may establish rules charging for guests who remain on the premises for more than ((~~fifteen~~)) 15 days in any 60-day period;

(g) By which the tenant agrees to waive or forego homestead rights provided by chapter 6.13 RCW. This subsection shall not prohibit such waiver after a default in rent so long as such waiver is in writing signed by the husband and wife or by an unmarried claimant and in consideration of the landlord's agreement not to terminate the tenancy for a period of time specified in the waiver if the landlord would be otherwise entitled to terminate the tenancy under this chapter;

(h) By which, at the time the rental agreement is entered into, the landlord and tenant agree to the selection of a particular arbitrator; or

(i) By which the tenant agrees to make rent payments through electronic means only.

(3) Any provision prohibited under this section that is included in a rental agreement is unenforceable.

Sec. 4. RCW 59.20.073 and 2019 c 342 s 5 are each amended to read as follows:

(1) Any rental agreement shall be assignable by the tenant to any person to whom he or she sells or transfers title to the mobile home, manufactured home, or park model.

(2) A tenant who sells a mobile home, manufactured home, or park model within a park must provide the buyer with a copy of a closure notice provided by

the landlord pursuant to RCW 59.20.080, if such notice is in effect, at least 15 days in advance of the intended sale and transfer.

(3) A tenant who sells a mobile home, manufactured home, or park model within a park shall notify the landlord in writing of the date of the intended sale and transfer of the rental agreement at least ((~~fifteen~~)) 15 days in advance of such intended transfer and shall notify the buyer in writing of the provisions of this section. The tenant shall verify in writing to the landlord payment of all taxes, rent, and reasonable expenses due on the mobile home, manufactured home, or park model and mobile home lot. The tenant shall notify the buyer of all taxes, rent, and reasonable expenses due on the manufactured/mobile home or park model and the mobile home lot.

(((~~(3)~~))) (4) At least seven days in advance of such intended transfer, the landlord shall:

(a) Notify the selling tenant, in writing, of a refusal to permit transfer of the rental agreement; or

(b) If the landlord approves of the transfer, provide the buyer with copies of the written rental agreement, the rules and regulations, and all other documents related to the tenancy. A landlord may not accept payment for rent or deposit from the buyer until the landlord has provided the buyer with these copies.

(((~~(4)~~))) (5) The landlord may require the mobile home, manufactured home, or park model to meet applicable fire and safety standards if a state or local agency responsible for the enforcement of fire and safety standards has issued a notice of violation of those standards to the tenant and those violations remain uncorrected. Upon correction of the violation to the satisfaction of the state or local agency responsible for the enforcement of that notice of violation, the landlord's refusal to permit the transfer is deemed withdrawn.

(((~~(5)~~))) (6) The landlord shall approve or disapprove of the assignment of a rental agreement on the same basis that the landlord approves or disapproves of any new tenant, and any disapproval shall be in writing. Consent to an assignment shall not be unreasonably withheld.

(((~~(6)~~))) (7) Failure to notify the landlord in writing, as required under subsection (((~~(2)~~))) (3) of this section; or failure of the new tenant to make a good faith attempt to arrange an interview with the landlord to discuss assignment of the rental agreement; or failure of the current or new tenant to obtain written approval of the landlord for assignment of the rental agreement, shall be grounds for disapproval of such transfer.

Sec. 5. RCW 59.20.080 and 2019 c 342 s 6 are each amended to read as follows:

(1) A landlord shall not terminate or fail to renew a tenancy of a tenant or the occupancy of an occupant, of whatever duration except for one or more of the following reasons:

(a) In accordance with RCW 59.20.045(6), substantial violation, or repeated or periodic violations, of an enforceable rule of the mobile home park as established by the landlord at the inception of or during the tenancy or for violation of the tenant's duties as provided in RCW 59.20.140. The tenant shall be given written notice to cease the rule violation immediately. The notice shall state that failure to cease the violation of the rule or any subsequent violation of that or any other rule shall result in termination of the tenancy, and that the tenant shall vacate the premises within twenty days: PROVIDED, That for a

periodic violation the notice shall also specify that repetition of the same violation shall result in termination: PROVIDED FURTHER, That in the case of a violation of a "material change" in park rules with respect to pets, tenants with minor children living with them, or recreational facilities, the tenant shall be given written notice under this chapter of a six month period in which to comply or vacate;

(b) Nonpayment of rent or other charges specified in the rental agreement, upon ((~~fourteen~~)) 14 days written notice to pay rent and/or other charges or to vacate;

(c) Conviction of the tenant of a crime, commission of which threatens the health, safety, or welfare of the other mobile home park tenants. The tenant shall be given written notice of a ((~~fifteen~~)) 15-day period in which to vacate;

(d) Failure of the tenant to comply with local ordinances and state laws and regulations relating to mobile homes, manufactured homes, or park models or mobile home, manufactured homes, or park model living within a reasonable time after the tenant's receipt of notice of such noncompliance from the appropriate governmental agency;

(e) Change of land use of the mobile home park including, but not limited to, closure of the mobile home park or conversion to a use other than for mobile homes, manufactured homes, or park models or conversion of the mobile home park to a mobile home park cooperative or mobile home park subdivision. The landlord shall give the tenants ((~~twelve months'~~)) two years' notice, in the form of a closure notice meeting the requirements of RCW 59.21.030, in advance of the effective date of such change. The two-year closure notice requirement does not apply if:

(i) The mobile home park or manufactured housing community has been acquired for or is under imminent threat of condemnation;

(ii) The mobile home park or manufactured housing community is sold or transferred to a county in order to reduce conflicting residential uses near a military installation;

(iii) The mobile home park or manufactured housing community is sold to an eligible organization ((~~comprised of park or community tenants, to a nonprofit organization, to a local government, or to a housing authority for the purpose of preserving the park or community~~)); ((~~or~~

~~(iii)~~)) (iv) The landlord ((~~compensates~~)) provides relocation assistance of at least $15,000 for a multisection home or of at least $10,000 for a single section home, establishes a simple, straightforward, and timely process for compensating the tenants for the loss of their homes and actually compensates the tenants for the loss of their homes, at ((~~their assessed value, as determined by the county assessor as of the date the closure notice is issued~~)) the greater of 50 percent of their assessed market value in the tax year prior to the notice of closure being issued, or $5,000, at any point during the closure notice period and prior to a change of use or sale of the property. At such time as the compensation is paid, the tenant shall be given written notice of at least ((~~ninety days~~)) 12 months in which to vacate, and the tenant shall continue to pay rent for as much time as he or she remains in the mobile home park or manufactured housing community. Nothing in this subsection (1)(e)(iv) prevents a tenant from relocating his or her home out of the mobile home park or manufactured housing community pursuant to chapter 59.21 RCW. In the event that a home remains in

the mobile home park or manufactured housing community after a tenant vacates, the landlord shall be responsible for its demolition or disposal. A landlord is still eligible for demolition and disposal costs pursuant to RCW 59.21.021. Homeowners who receive payments or financial assistance from landlords as described in this subsection (1)(e)(iv) remain eligible to receive other state assistance for which they may be eligible including, but not limited to, relocation assistance funds pursuant to RCW 59.21.021; or

(v) The landlord provides relocation assistance of at least $15,000 for a multisection home and of at least $10,000 for a single section home at any point during the closure notice period and prior to a change of use or sale of the property. At such time as the assistance is paid, the tenant shall be given written notice of at least 18 months in which to vacate, and the tenant shall continue to pay rent for as much time as he or she remains in the mobile home park or manufactured housing community. Nothing in this subsection (1)(e)(v) prevents a tenant from relocating his or her home out of the mobile home park or manufactured housing community pursuant to chapter 59.21 RCW. In the event that a home remains in the mobile home park or manufactured housing community after a tenant vacates, the landlord shall be responsible for its demolition or disposal. A landlord is still eligible for demolition and disposal costs pursuant to RCW 59.21.021. Homeowners who receive payments or financial assistance from landlords as described in this subsection (1)(e)(v) remain eligible to receive other state assistance for which they may be eligible including, but not limited to, relocation assistance funds pursuant to RCW 59.21.021;

(f) Engaging in "criminal activity." "Criminal activity" means a criminal act defined by statute or ordinance that threatens the health, safety, or welfare of the tenants. A park owner seeking to evict a tenant or occupant under this subsection need not produce evidence of a criminal conviction, even if the alleged misconduct constitutes a criminal offense. Notice from a law enforcement agency of criminal activity constitutes sufficient grounds, but not the only grounds, for an eviction under this subsection. Notification of the seizure of illegal drugs under RCW 59.20.155 is evidence of criminal activity and is grounds for an eviction under this subsection. The requirement that any tenant or occupant register as a sex offender under RCW 9A.44.130 is grounds for eviction of the sex offender under this subsection. If criminal activity is alleged to be a basis of termination, the park owner may proceed directly to an unlawful detainer action;

(g) The tenant's application for tenancy contained a material misstatement that induced the park owner to approve the tenant as a resident of the park, and the park owner discovers and acts upon the misstatement within one year of the time the resident began paying rent;

(h) If the landlord serves a tenant three ((~~twenty-day~~)) 20-day notices, each of which was valid under (a) of this subsection at the time of service, within a ((~~twelve-month~~)) 12-month period to comply or vacate for failure to comply with the material terms of the rental agreement or an enforceable park rule, other than failure to pay rent by the due date. The applicable ((~~twelve-month~~)) 12-month period shall commence on the date of the first violation;

(i) Failure of the tenant to comply with obligations imposed upon tenants by applicable provisions of municipal, county, and state codes, statutes, ordinances,

and regulations, including this chapter. The landlord shall give the tenant written notice to comply immediately. The notice must state that failure to comply will result in termination of the tenancy and that the tenant shall vacate the premises within ((~~fifteen~~)) 15 days;

(j) The tenant engages in disorderly or substantially annoying conduct upon the park premises that results in the destruction of the rights of others to the peaceful enjoyment and use of the premises. The landlord shall give the tenant written notice to comply immediately. The notice must state that failure to comply will result in termination of the tenancy and that the tenant shall vacate the premises within ((~~fifteen~~)) 15 days;

(k) The tenant creates a nuisance that materially affects the health, safety, and welfare of other park residents. The landlord shall give the tenant written notice to cease the conduct that constitutes a nuisance immediately. The notice must describe the nuisance and state (i) what the tenant must do to cease the nuisance and (ii) that failure to cease the conduct will result in termination of the tenancy and that the tenant shall vacate the premises in five days;

(l) Any other substantial just cause that materially affects the health, safety, and welfare of other park residents. The landlord shall give the tenant written notice to comply immediately. The notice must describe the harm caused by the tenant, describe what the tenant must do to comply and to discontinue the harm, and state that failure to comply will result in termination of the tenancy and that the tenant shall vacate the premises within ((~~fifteen~~)) 15 days; or

(m) Failure to pay rent by the due date provided for in the rental agreement three or more times in a ((~~twelve-month~~)) 12-month period, commencing with the date of the first violation, after service of a ((~~fourteen-day~~)) 14-day notice to comply or vacate.

(2) Within five days of a notice of eviction as required by subsection (1)(a) of this section, the landlord and tenant shall submit any dispute to mediation. The parties may agree in writing to mediation by an independent third party or through industry mediation procedures. If the parties cannot agree, then mediation shall be through industry mediation procedures. A duty is imposed upon both parties to participate in the mediation process in good faith for a period of ((~~ten~~)) 10 days for an eviction under subsection (1)(a) of this section. It is a defense to an eviction under subsection (1)(a) of this section that a landlord did not participate in the mediation process in good faith.

(3) Except for a tenant evicted under subsection (1)(c) or (f) of this section, a tenant evicted from a mobile home park under this section shall be allowed ((~~one hundred twenty~~)) 120 days within which to sell the tenant's mobile home, manufactured home, or park model in place within the mobile home park: PROVIDED, That the tenant remains current in the payment of rent incurred after eviction, and pays any past due rent, reasonable attorneys' fees and court costs at the time the rental agreement is assigned. The provisions of RCW 59.20.073 regarding transfer of rental agreements apply.

(4) Chapters 59.12 and 59.18 RCW govern the eviction of recreational vehicles, as defined in RCW 59.20.030, from mobile home parks. This chapter governs the eviction of mobile homes, manufactured homes, park models, and recreational vehicles used as a primary residence from a mobile home park.

Sec. 6. RCW 59.20.300 and 2011 c 158 s 5 are each amended to read as follows:

(1) A landlord must provide a written notice of sale of a manufactured/mobile home community by certified mail or personal delivery to:

(a) Each tenant of the manufactured/mobile home community;

(b) The officers of any known qualified tenant organization;

(c) The office of mobile/manufactured home relocation assistance;

(d) The local government within whose jurisdiction all or part of the manufactured/mobile home community exists;

(e) The housing authority within whose jurisdiction all or part of the manufactured/mobile home community exists; and

(f) The Washington state housing finance commission.

(2) A notice of sale must include:

(a) A statement that the landlord intends to sell or lease the manufactured/mobile home community or the property on which it sits; and

(b) The contact information of the landlord or landlord's agent who is responsible for communicating with the qualified tenant organization, tenants, or eligible organization regarding the sale of the property.

NEW SECTION. **Sec. 7.** A new section is added to chapter 59.20 RCW to read as follows:

No county, city, town, or municipality of any class may enact, maintain, or enforce ordinances or other provisions that regulate the same matters in sections 8 through 12 of this act. Local laws and ordinances that regulate the same matters as in sections 8 through 12 of this act shall not be enacted and are preempted and repealed, regardless of the nature of the code, charter, or home rule status of such city, town, county, or municipality, except for those local laws already in effect before May 1, 2023.

NEW SECTION. **Sec. 8.** A new section is added to chapter 59.20 RCW to read as follows:

(1) An owner shall give written notice of an opportunity to compete to purchase indicating the owner's interest in selling the manufactured/mobile home community before the owner markets the manufactured/mobile home community for sale or includes the sale of the manufactured/mobile home community in a multiple listing, and when the owner receives an offer to purchase that the owner intends to consider.

(2) The owner shall give the notice in subsection (1) of this section by certified mail or personal delivery to:

(a) All tenants of the manufactured/mobile home community;

(b) A qualified tenant organization, if there is an existing qualified tenant organization within the manufactured/mobile home community;

(c) The department of commerce; and

(d) The Washington state housing finance commission.

(3) The notice required in subsection (1) of this section must include:

(a) A statement that the owner is considering selling the manufactured/mobile home community or the property on which it sits;

(b) A statement that the tenants, through a qualified tenant organization representing a majority of the tenants in the community, based on home sites, or an eligible organization, have an opportunity to compete to purchase the manufactured/mobile home community;

(c) A statement that in order to compete to purchase the manufactured/mobile home community, within 70 days after delivery of the notice of the owner's interest in selling the manufactured/mobile home community, the tenants must form or identify a single qualified tenant organization for the purpose of purchasing the manufactured/mobile home community and notify the owner in writing of:

(i) The tenants' interest in competing to purchase the manufactured/mobile home community; and

(ii) The name and contact information of the representative or representatives of the qualified tenant organization with whom the owner may communicate about the purchase; and

(d) A statement that information about purchasing a manufactured/mobile home community is available from the department of commerce.

(4) The representative or representatives of the tenants committee will be able to request park operating expenses described in section 9 of this act from the owner within a 15-day information period following delivery of the qualified tenant organization's notice to the owner indicating interest in competing to purchase the manufactured/mobile home community.

(5) An eligible organization may also compete to purchase and is subject to the same time constraints and applicable conditions as a qualified tenant organization.

NEW SECTION. **Sec. 9.** A new section is added to chapter 59.20 RCW to read as follows:

(1) Within 70 days after delivery of the notice of the opportunity to compete to purchase the manufactured/mobile home community described in section 8 of this act, if the tenants choose to compete to purchase the manufactured/mobile home community in which the tenants reside, the tenants must notify the owner in writing of:

(a) The tenants' interest in competing to purchase the manufactured/mobile home community;

(b) Their formation or identification of a single qualified tenant organization made up of a majority of the tenants in the community, based on home sites, formed for the purpose of purchasing the manufactured/mobile home community; and

(c) The name and contact information of the representative or representatives of the qualified tenant organization with whom the owner may communicate about the purchase.

(2) The tenants may only have one qualified tenant organization for the purpose of purchasing the manufactured/mobile home community, but they may partner with a nonprofit or a housing authority to act with or for them subject to the same timelines, duties, and obligations that would apply to tenants and qualified tenant organizations under this act.

(3) Within 15 days following delivery of the notice in subsection (1) of this section from the tenants to the owner:

(a) The designated representative or representatives of the qualified tenant organization may make a written request to the owner for:

(i) The asking price for the manufactured/mobile home community, if any; and

(ii) Financial information relating to the operating expenses of the manufactured/mobile home community in order to assist them in making an offer to purchase the park;

(b) The owner may make a written request to the designated representative or representatives of the qualified tenant organization for proof of intent to fund a sale;

(c) All written requests made pursuant to this subsection must be fulfilled within 21 days from receipt unless otherwise agreed by the qualified tenant organization and the owner;

(d) Unless waived by the provider, information provided pursuant to this subsection shall be kept confidential, and a list must be created of persons with whom the tenants may share information who will also keep provided information confidential, including any of the following persons that are either seeking to purchase the manufactured/mobile home community on behalf of the tenants or assisting the qualified tenant organization in evaluating or purchasing the manufactured/mobile home community:

(i) A nonprofit organization or a housing authority;

(ii) An attorney or other licensed professional or adviser; and

(iii) A financial institution.

(4) Within 21 days after delivery of the information described in subsection (3)(a) of this section, if the tenants choose to continue competing to purchase the manufactured/mobile home community, the tenants must:

(a) Form a resident nonprofit cooperative that is legally capable of purchasing real property or associate with a nonprofit corporation or housing authority that is legally capable of purchasing the manufactured/mobile home community in which the tenants reside; and

(b) Submit to the owner a written offer to purchase the manufactured/mobile home community, in the form of a proposed purchase and sale agreement, and either a copy of the articles of incorporation of the corporate entity or other evidence of the legal capacity of the formed or associated corporate entity, nonprofit corporation, or housing authority to purchase real property and the manufactured/mobile home community.

(5)(a) Within 10 days of receiving the tenants' purchase and sale agreement, the owner may accept the offer, reject the offer, or submit a counteroffer.

(b) If the parties reach agreement on the purchase, the purchase and sale agreement must specify the price, due diligence duties, schedules, timelines, conditions, and any extensions.

(c) If the offer is rejected, then the owner must provide a written explanation of why the offer is being rejected and what terms and conditions might be included in a subsequent offer for the landlord to potentially accept it, if any. The price, terms, and conditions of an acceptable offer stated in the response must be universal and applicable to all potential buyers and must not be specific to and prohibitive of a qualified tenant organization or eligible organization making a successful offer to purchase the park.

(d) If the tenants do not: (i) Act as required within the time periods described in this act; (ii) violate the confidentiality agreement described in this section; or (iii) reach agreement on a purchase with the owner, the owner is not obligated to take additional action under this act and may record an affidavit pursuant to section 12 of this act.

(6) An eligible organization acting on its own behalf is also subject to the same requirements and applicable conditions as those set out in this section.

NEW SECTION. **Sec. 10.** A new section is added to chapter 59.20 RCW to read as follows:

(1) During the process described in sections 8 and 9 of this act, the parties shall act in good faith and in a commercially reasonable manner, which includes a duty for the tenants to notify the owner promptly if there is no intent to purchase the manufactured/mobile home community or the property on which it sits. The parties have an overall duty to act in good faith. With respect to negotiation, this overall duty of good faith requirement means that the owner must allow the tenants to develop an offer, must give their offer reasonable consideration, and must inform the tenants if a higher offer is submitted. Furthermore, the owner may not deny residents the same access to the community and to information, such as operating expenses and rent rolls, that the landowner would give to a commercial buyer. With respect to financial information, all parties shall agree to keep this information confidential.

(2) Except as provided in section 11(1) of this act, before selling a manufactured/mobile home community to an entity that is not formed by or associated with the tenants, or to an eligible organization, the owner of the manufactured/mobile home community must give the notice required by section 8 of this act and comply with the requirements of section 9 of this act.

(3) A minor error in providing the notice required by section 8 of this act or in providing operating expenses information required by section 9 of this act does not prevent the owner from selling the manufactured/mobile home community to an entity that is not formed by or associated with the tenants and does not cause the owner to be liable to the tenants for damages or a penalty.

(4) During the process described in sections 8 and 9 of this act, the owner may seek, negotiate with, or enter into a contract subject to the rights of the tenants in this act with potential purchasers other than the tenants or an entity formed by or associated with the tenants or another eligible organization.

(5) If the owner does not comply with the requirements of this act in a substantial way that prevents the tenants or an eligible organization from competing to purchase the manufactured/mobile home community, the tenants or eligible organization may:

(a) Obtain injunctive relief to prevent a sale or transfer to an entity that is not formed by or associated with the tenants; and

(b) Recover actual damages not to exceed twice the monthly rent from the owner for each tenant.

(6) If a party misuses or discloses, in a substantial way, confidential information in violation of section 9 of this act, that party may recover actual damages from the other party.

(7) The department of commerce shall prepare and make available information for tenants about purchasing a manufactured dwelling or manufactured/mobile home community.

NEW SECTION. **Sec. 11.** A new section is added to chapter 59.20 RCW to read as follows:

(1) With regard to a sale or transfer of a manufactured/mobile home community, sections 8 and 9 of this act do not apply to any:

(a) Sale or transfer to an individual identified in RCW 11.04.015 if the owner of the manufactured/mobile home community dies intestate;

(b) Transfer by gift, devise, or operation of law;

(c) Transfer by a corporation to an affiliate;

(d) Transfer by a partnership to any of its partners;

(e) Transfer among the shareholders who own a manufactured/mobile home community;

(f) Transfer to a member of the owner's family or to a trust for the sole benefit of members of the owner's family;

(g) Sale or transfer of less than a controlling interest in the legal entity that owns the manufactured/mobile home community;

(h) Conveyance of an interest in a manufactured/mobile home community incidental to the financing of the mobile home park;

(i) Sale or transfer between or among joint tenants or tenants in common owning a manufactured/mobile home community;

(j) Bona fide exchange of a manufactured/mobile home community for other real property under section 1031 of the internal revenue code, as long as, at the time the manufactured/mobile home community owner lists the property or receives an offer for the manufactured/mobile home community, the owner has already commenced the exchange by the purchase of a property through a qualified exchange agent. In that circumstance, the owner has a deadline for selling the manufactured/mobile home community in order to gain the 1031 tax benefits; and

(k) Purchase of a manufactured/mobile home community by a governmental entity under the entity's powers of eminent domain.

(2) For the purposes of this section, "affiliate" means an individual, corporation, limited partnership, unincorporated association, or entity that holds any direct or indirect ownership interest in the manufactured/mobile home community, except that the notice and extension of the opportunity to purchase must be granted to a qualified tenant organization or other eligible organization where the majority interest in the ownership of the manufactured/mobile home community or the power, directly or indirectly, to direct or cause the direction of the management and policies over the manufactured/mobile home community, whether through ownership of voting stock, by contract, or otherwise, is sold, transferred, or conveyed to any individual, corporation, limited partnership, unincorporated association, or other entity which has not held such a direct or indirect ownership interest in the manufactured/mobile home community for three or more years.

NEW SECTION. **Sec. 12.** A new section is added to chapter 59.20 RCW to read as follows:

(1) An owner may record an affidavit in the county in which the manufactured/mobile home community is located that certifies that the owner has:

(a) Complied with the requirements of sections 8 and 9 of this act with reference to an offer received by the owner for the purchase or transfer of the manufactured/mobile home community or to a counteroffer the owner has made or intends to make;

(b) Not entered into a contract for the sale or transfer of the manufactured/mobile home community to an entity formed by or associated with the tenants.

(2) The following parties have an absolute right to rely on the truth and accuracy of all statements appearing in the affidavit and are not obligated to inquire further as to any matter or fact relating to the owner's compliance with sections 8 and 9 of this act:

(a) A party that acquires an interest in a manufactured/mobile home community;

(b) A title insurance company or an attorney that prepares, furnishes, or examines evidence of title.

(3) The purpose and intention of this section is to preserve the marketability of title to manufactured/mobile home communities across the state. Accordingly, this section must be liberally construed so that all persons may rely on the record title to manufactured/mobile home communities.

Sec. 13. RCW 59.20.305 and 2008 c 116 s 5 are each amended to read as follows:

A landlord intending to sell or lease a manufactured/mobile home community or the property on which it sits is ((~~encouraged~~)) required to negotiate in good faith with qualified tenant organizations and eligible organizations. Any qualified tenant organization or eligible organization that submits a notice of intent to purchase or lease a manufactured/mobile home community or the property on which it sits pursuant to sections 7 and 8 of this act is required to negotiate in good faith with the landlord intending to sell or lease the manufactured/mobile home community or property on which it sits, including notifying the owner promptly if conditions change and there is no longer any intent to purchase or lease the manufactured/mobile home community or the property on which it sits.

NEW SECTION. **Sec. 14.** A new section is added to chapter 59.20 RCW to read as follows:

(1) The department of commerce must maintain a registry of all eligible organizations that submit to the department of commerce a written request to receive notices of opportunity to compete to purchase or lease manufactured/mobile home communities pursuant to section 8 of this act. The department of commerce must provide registered eligible organizations with notices of opportunity to compete to purchase once it receives such a notice. The registry must include the following information:

(a) The name and mailing address of the eligible organization; and

(b) A statement that the eligible organization wishes to purchase or lease a manufactured/mobile home community.

(2) The department of commerce must provide a copy of the registry required to be maintained under this section to any person upon request.

NEW SECTION. **Sec. 15.** A new section is added to chapter 59.20 RCW to read as follows:

(1) An owner who sells or transfers a manufactured/mobile home community and willfully fails to comply with section 8 or 9 of this act or RCW 59.20.305 is liable to the state of Washington for a civil penalty in the amount of

$10,000. This penalty is the exclusive state remedy for a violation of section 8 or 9 of this act or RCW 59.20.305.

(2) The attorney general may bring a civil action in superior court in the name of the state against a landlord under this section to recover the penalty specified in subsection (1) of this section.

NEW SECTION. **Sec. 16.** A new section is added to chapter 59.20 RCW to read as follows:

RCW 59.20.300, 59.20.305, and sections 8, 9, and 15 of this act do not apply to any sale or transfer of a manufactured/mobile home community to a county in order to reduce conflicting residential uses near military installations.

Sec. 17. RCW 59.21.040 and 1998 c 124 s 4 are each amended to read as follows:

A tenant is not entitled to relocation assistance under this chapter if: (1) The tenant has given notice to the landlord of his or her intent to vacate the park and terminate the tenancy before any written notice of closure pursuant to RCW 59.20.080(1)(e) has been given; (2) the tenant purchased a mobile home already situated in the park or moved a mobile home into the park after a written notice of closure pursuant to RCW 59.20.090 has been given and the person received actual prior notice of the change or closure; or (3) the tenant receives assistance from an outside source that exceeds the maximum amounts of assistance to which a person is entitled under RCW 59.21.021(3), except that a tenant receiving relocation assistance from a landlord pursuant to RCW 59.20.080 remains eligible for the maximum amounts of assistance under this chapter. However, no tenant may be denied relocation assistance under subsection (1) of this section if the tenant has remained on the premises and continued paying rent for a period of at least six months after giving notice of intent to vacate and before receiving formal notice of a closure or change of use.

Passed by the Senate March 3, 2023.
Passed by the House March 23, 2023.
Approved by the Governor April 6, 2023.
Filed in Office of Secretary of State April 6, 2023.

CHAPTER 41

[Senate Bill 5295]

ACCOUNTS—ELIMINATING

AN ACT Relating to eliminating accounts; amending RCW 43.84.092 and 43.84.092; decodifying RCW 43.99N.040; repealing RCW 13.40.466, 43.72.902, 43.83.300, 43.83.310, 43.83.320, 43.83.370, and 70A.135.100; providing effective dates; providing an expiration date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The following acts or parts of acts are each repealed:

(1) RCW 13.40.466 (Reinvesting in youth account) and 2017 3rd sp.s. c 6 s 619, 2013 2nd sp.s. c 4 s 953, & 2006 c 304 s 4;

(2) RCW 43.72.902 (Public health services account) and 2001 2nd sp.s. c 7 s 916, 2000 2nd sp.s. c 1 s 913, 1995 c 43 s 12, & 1993 c 492 s 470;

(3) RCW 43.83.300 (State higher education construction account) and 2015 1st sp.s. c 4 s 25, 1991 sp.s. c 13 s 45, 1985 c 57 s 11, & 1973 1st ex.s. c 135 s 2;

(4) RCW 43.83.310 (Higher education construction account) and 2015 1st sp.s. c 4 s 26, 1991 sp.s. c 13 s 8, 1985 c 57 s 13, & 1979 ex.s. c 253 s 4;

(5) RCW 43.83.320 (Higher education reimbursable short-term bond account) and 2015 1st sp.s. c 4 s 41, 2012 c 198 s 4, 1989 1st ex.s. c 14 s 13, 1988 c 36 s 22, 1986 c 103 s 1, & 1985 ex.s. c 4 s 2;

(6) RCW 43.83.370 (Fisheries capital projects account) and 2015 1st sp.s. c 4 s 37 & 1975-'76 2nd ex.s. c 132 s 4; and

(7) RCW 70A.135.100 (Water quality capital account—Expenditures) and 2020 c 20 s 1381, 2010 1st sp.s. c 37 s 948, & 2007 c 233 s 1.

NEW SECTION. **Sec. 2.** RCW 43.99N.040 (Stadium and exhibition center construction account) is decodified.

Sec. 3. RCW 43.84.092 and 2022 c 182 s 403 are each amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the Alaskan Way viaduct replacement project account, the ambulance transport fund, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Central Washington University capital projects

account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the Chehalis basin taxable account, the cleanup settlement account, the climate active transportation account, the climate transit programs account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community services account, the diesel idle reduction account, the drinking water assistance account, the administrative subaccount of the drinking water assistance account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the electric vehicle account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the fair start for kids account, the ferry bond retirement fund, the fish, wildlife, and conservation account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, ((~~the public health services account, the state higher education construction account, the higher education construction account,~~)) the higher education retirement plan supplemental benefit fund, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the hospital safety net assessment fund, the Interstate 405 and state route number 167 express toll lanes account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the limited fish and wildlife account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the move ahead WA account, the move ahead WA flexible account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pilotage account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound Gateway facility account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the sexual

assault prevention and response account, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state reclamation revolving account, the state route number 520 civil penalties account, the state route number 520 corridor account, the statewide broadband account, the statewide tourism marketing account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the University of Washington bond retirement fund, the University of Washington building account, the voluntary cleanup account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the vulnerable roadway user education account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Sec. 4. RCW 43.84.092 and 2022 c 182 s 404 are each amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the Alaskan Way viaduct replacement project account, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the Chehalis basin taxable account, the cleanup settlement account, the climate active transportation account, the climate transit programs account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community services account, the diesel idle reduction account, the drinking water assistance account, the administrative subaccount of the drinking water assistance account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the electric vehicle account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the fair start for

kids account, the ferry bond retirement fund, the fish, wildlife, and conservation account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, ((~~the public health services account, the state higher education construction account, the higher education construction account,~~)) the higher education retirement plan supplemental benefit fund, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the hospital safety net assessment fund, the Interstate 405 and state route number 167 express toll lanes account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the limited fish and wildlife account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the move ahead WA account, the move ahead WA flexible account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pilotage account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound Gateway facility account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the sexual assault prevention and response account, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state reclamation revolving account, the state route number 520 civil penalties account, the state route number 520 corridor account, the statewide broadband account, the statewide tourism marketing account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the University of Washington bond retirement fund, the University of Washington building account, the voluntary cleanup account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer

firefighters' and reserve officers' administrative fund, the vulnerable roadway user education account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. **Sec. 5.** (1) Except as provided in subsections (2) and (3) of this section, on or before June 30, 2023, any residual balance remaining in each account repealed in section 1 of this act shall be transferred to the state general fund.

(2) On or before June 30, 2023, any residual balance remaining in the water quality capital account shall be transferred to the salmon recovery account.

(3) On or before June 30, 2023, any residual balance remaining in the higher education construction account and the state higher education construction account shall be transferred to the community and technical college capital projects account.

NEW SECTION. **Sec. 6.** (1) Except for sections 4 and 5 of this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2023.

(2) Section 4 of this act takes effect July 1, 2024.

(3) Section 5 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. **Sec. 7.** Section 3 of this act expires July 1, 2024.

Passed by the Senate February 15, 2023.
Passed by the House March 24, 2023.
Approved by the Governor April 6, 2023.

Filed in Office of Secretary of State April 6, 2023.

CHAPTER 42

[Senate Bill 5319]

PET INSURANCE

AN ACT Relating to pet insurance; adding a new chapter to Title 48 RCW; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The requirements of this chapter shall apply to pet insurance policies that are issued to any resident of this state, are sold, solicited, negotiated, or offered in this state, and policies or certificates that are delivered or issued for delivery in this state.

(2) All other applicable provisions of this state's insurance laws continue to apply to pet insurance except that the specific provisions of this chapter shall supersede any general provisions of law that would otherwise be applicable to pet insurance.

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

(1) "Chronic condition" means a condition that can be treated or managed, but not cured.

(2) "Congenital anomaly" and "congenital disorder" mean a condition that is present from birth, whether inherited or caused by the environment, which may cause or contribute to illness or disease.

(3) "Hereditary disorder" means an abnormality that is genetically transmitted from parent to offspring and may cause illness or disease.

(4) "Orthopedic" refers to conditions affecting the bones, skeletal muscle, cartilage, tendons, ligaments, and joints. "Orthopedic" includes, but is not limited to, elbow dysplasia, hip dysplasia, intervertebral disc degeneration, patellar luxation, and ruptured cranial cruciate ligaments. It does not include cancers or metabolic, hemopoietic, or autoimmune diseases.

(5) "Pet insurance" means a property insurance policy that provides coverage for accidents and illnesses of pets.

(6)(a) "Preexisting condition" means any condition for which any of the following are true prior to the effective date of a pet insurance policy or during any waiting period:

(i) A veterinarian provided medical advice;

(ii) The pet received previous treatment; or

(iii) Based on information from verifiable sources, the pet had signs or symptoms directly related to the condition for which a claim is being made.

(b) A condition for which coverage is afforded on a policy cannot be considered a preexisting condition on any renewal of the policy.

(7) "Renewal" means to issue and deliver at the end of an insurance policy period a policy which supersedes a policy previously issued and delivered by the same pet insurer or affiliated pet insurer and which provides types and limits of coverage substantially similar to those contained in the policy being superseded.

(8) "Veterinarian" means an individual who holds a valid license to practice veterinary medicine from the appropriate licensing entity in the jurisdiction in which he or she practices.

(9) "Veterinary expenses" means the costs associated with medical advice, diagnosis, care, or treatment provided by a veterinarian including, but not limited to, the cost of drugs prescribed by a veterinarian.

(10) "Waiting period" means the period of time specified in a pet insurance policy that is required to transpire before some or all of the coverage in the policy can begin.

(11) "Wellness program" means a subscription or reimbursement-based program that is separate from an insurance policy that provides goods and services to promote the general health, safety, or well-being of the pet.

NEW SECTION. **Sec. 3.** (1) If a pet insurer uses any of the terms in section 2 of this act in a policy of pet insurance, the pet insurer shall use the definition of each of those terms as set forth in section 2 of this act and include the definition of the terms in the policy. The pet insurer shall also make the definition available through a clear and conspicuous link on the main page of either the pet insurer's website or the pet insurer's program administrator's website, or both.

(2) Nothing in section 2 of this act shall in any way prohibit or limit the types of exclusions pet insurers may use in their policies or require pet insurers to have any of the limitations or exclusions in this chapter.

NEW SECTION. **Sec. 4.** (1) A pet insurer transacting pet insurance shall disclose the following to consumers:

(a) If the policy excludes coverage due to any of the following:

(i) A preexisting condition;

(ii) A hereditary disorder;

(iii) Either a congenital anomaly or a congenital disorder, or both; or

(iv) A chronic condition;

(b) If the policy includes any other exclusions, the following statement: "Other exclusions may apply. Please refer to the exclusions section of the policy for more information";

(c) Any policy provision that limits coverage through a waiting or affiliation period, a deductible, coinsurance, or an annual or lifetime policy limit;

(d) Whether the pet insurer reduces coverage or increases premiums based on the insured's claim history, the age of the covered pet, or a change in the geographic location of the insured; and

(e) If the underwriting company differs from the brand name used to market and sell the product.

(2)(a) Unless the insured has filed a claim under the pet insurance policy, pet insurance applicants shall have the right to examine and return the policy, certificate, or endorsement to the company or an insurance producer appointed by the company within 15 days of its receipt and to have the premium refunded if, after examination of the policy, certificate, or endorsement, the applicant is not satisfied for any reason.

(b) Pet insurance policies, certificates, and endorsements must have a notice prominently printed on the first page or attached thereto including specific instructions to accomplish a return. The following free look statement or language substantially similar must be included:

"You have 15 days from the day you receive this policy, certificate, or endorsement to review it and return it to the company if you decide not to keep it. You do not have to tell the company why you are returning it. If you decide not to keep it, simply return it to the company at its administrative office or you may return it to the insurance producer that you bought it from as long as you have not filed a claim. You must return it within 15 days of the day you first received it. The company will refund the full amount of any premium paid within 30 days after it receives the returned policy, certificate, or endorsement. The premium refund will be sent directly to the person who paid it. The policy, certificate, or endorsement will be void as if it had never been issued."

(3) A pet insurer shall clearly disclose a summary description of the basis or formula on which the pet insurer determines claim payments under a pet insurance policy within the policy prior to policy issuance and through a clear and conspicuous link on the main page of either the pet insurer's website or pet insurer's program administrator's website, or both.

(4) A pet insurer that uses a benefit schedule to determine claim payment under a pet insurance policy shall:

(a) Clearly disclose the applicable benefit schedule in the policy; and

(b) Disclose all benefit schedules used by the pet insurer under its pet insurance policies through a clear and conspicuous link on the main page of either the pet insurer's website or pet insurer's program administrator's website, or both.

(5) A pet insurer that determines claim payments under a pet insurance policy based on usual and customary fees or any other reimbursement limitation based on prevailing veterinary service provider charges shall:

(a) Include a usual and customary fee limitation provision in the policy that clearly describes the pet insurer's basis for determining usual and customary fees and how that basis is applied in calculating claim payments; and

(b) Disclose the pet insurer's basis for determining usual and customary fees through a clear and conspicuous link on the main page of either the pet insurer's website or the pet insurer's program administrator's website, or both.

(6) If any medical examination by a licensed veterinarian is required to effectuate coverage, the pet insurer shall clearly and conspicuously disclose the required aspects of the examination prior to purchase and disclose that examination documentation may result in a preexisting condition exclusion.

(7) The pet insurer shall disclose waiting periods and the requirements applicable to them clearly and prominently to consumers prior to the policy purchase.

(8) The pet insurer shall include a summary of all policy provisions required in this section in a separate document titled "insurer disclosure of important policy provisions."

(9) The pet insurer shall post the insurer disclosure of important policy provisions document required in subsection (8) of this section through a clear and conspicuous link on the main page of either the pet insurer's website or the pet insurer's program administrator's website, or both.

(10) In connection with the issuance of a new pet insurance policy, the pet insurer shall provide the consumer with a copy of the insurer disclosure of important policy provisions document required in subsection (8) of this section in at least 12-point type when it delivers the policy.

(11) At the time a pet insurance policy is issued or delivered to a policyholder, the pet insurer shall include a written disclosure with the following information, printed in 12-point boldface type:

(a) The address and customer service telephone number of either the pet insurer or the insurance producer of record, or both; and

(b) If the policy was issued or delivered by an insurance producer, a statement advising the policyholder to contact the insurance producer for assistance.

(12) The disclosures required in this section are in addition to any other disclosure requirements required by law or regulation.

NEW SECTION. **Sec. 5.** (1) A pet insurer may issue policies that exclude coverage on the basis of one or more preexisting conditions with appropriate disclosure to the consumer. The pet insurer has the burden of proving that the preexisting condition exclusion applies to the condition for which a claim is being made.

(2)(a) A pet insurer may issue policies that impose waiting periods upon effectuation of the policy that do not exceed 30 days for illnesses or orthopedic conditions not resulting from an accident. Waiting periods for accidents are prohibited. Waiting periods may not be applied to renewals of existing coverage.

(b) A pet insurer utilizing a waiting period permitted in (a) of this subsection shall include a provision in its policy that allows the waiting periods to be waived upon completion of a medical examination. Pet insurers may require the examination to be conducted by a licensed veterinarian after the purchase of the policy.

(c) A medical examination under (b) of this subsection must be paid for by the policyholder, unless the policy specifies that the pet insurer will pay for the examination.

(d) A pet insurer can specify elements to be included as part of the examination and require documentation thereof, provided the specifications do not unreasonably restrict a consumer's ability to waive the waiting periods listed in (a) of this subsection.

(3) A pet insurer may not require a veterinary examination of the covered pet for the insured to have their policy renewed.

(4) If a pet insurer includes any prescriptive, wellness, or noninsurance benefits in the policy form, then it is made part of the policy contract and must follow all applicable laws and regulations in the insurance code.

(5) An insured's eligibility to purchase a pet insurance policy must not be based on participation, or lack of participation, in a separate wellness program.

NEW SECTION. **Sec. 6.** (1) A pet insurer and insurance producer may not:

(a) Market a wellness program as pet insurance; or

(b) Market a wellness program during the sale, solicitation, or negotiation of pet insurance.

(2) If a wellness program is sold by either a pet insurer or an insurance producer, or both:

(a) The purchase of the wellness program may not be a requirement to the purchase of pet insurance;

(b) The costs of the wellness program must be separate and identifiable from any pet insurance policy sold by either a pet insurer, an insurance producer, or both;

(c) The terms and conditions for the wellness program must be separate from any pet insurance policy sold by either a pet insurer, an insurance producer, or both;

(d) The products or coverages available through the wellness program may not duplicate products or coverages available through the pet insurance policy;

(e) The advertising of the wellness program may not be misleading and must be in accordance with this section;

(f) Either a pet insurer or an insurance producer, or both, must clearly disclose the following to consumers, printed in 12-point boldface type:

(i) That wellness programs are not insurance; and

(ii) The address and customer service telephone number of either the pet insurer or the insurance producer of record, or both.

(3) Coverages included in the pet insurance policy contract described as "wellness" benefits are insurance.

(4) If any wellness program undertakes to indemnify another or pay a specified amount upon determinable contingencies, it is transacting in the business of insurance and is subject to the insurance code. This definition is not intended to classify a contract directly between a service provider and a pet owner that only involves the two parties as being the business of insurance unless other indications of insurance also exist.

NEW SECTION. **Sec. 7.** (1) An insurance producer may not sell, solicit, or negotiate a pet insurance product until after the producer is appropriately licensed and has completed the required training identified in subsection (3) of this section.

(2) An insurer shall ensure that its producers are trained under subsection (3) of this section and that its producers have been appropriately trained on the coverages and conditions of its pet insurance products.

(3) The training required under this subsection must include information on the following topics:

(a) Preexisting conditions and waiting periods;

(b) The differences between pet insurance and noninsurance wellness programs;

(c) Hereditary disorders, congenital anomalies, congenital disorders, chronic conditions, and how pet insurance policies interact with those conditions or disorders; and

(d) Rating, underwriting, renewal, and other related administrative topics.

(4) The satisfaction of the training requirements of another state that are substantially similar to the provisions of subsection (3) of this section shall satisfy the training requirements in this state.

NEW SECTION. **Sec. 8.** The insurance commissioner may adopt rules as necessary to implement and administer this chapter.

NEW SECTION. **Sec. 9.** Sections 1 through 8 and 10 of this act constitute a new chapter in Title 48 RCW.

NEW SECTION. **Sec. 10.** This act takes effect January 1, 2024.

Passed by the Senate February 27, 2023.

Passed by the House March 24, 2023.
Approved by the Governor April 6, 2023.
Filed in Office of Secretary of State April 6, 2023.

CHAPTER 43

[Senate Bill 5342]

TRANSIT AGENCIES—INTERLOCAL AGREEMENTS—PROCUREMENT

AN ACT Relating to transit agencies' ability to enter into interlocal agreements for procurement; and amending RCW 39.34.030.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 39.34.030 and 2021 c 176 s 5216 are each amended to read as follows:

(1) Any power or powers, privileges or authority exercised or capable of exercise by a public agency of this state may be exercised and enjoyed jointly with any other public agency of this state having the power or powers, privilege or authority, and jointly with any public agency of any other state or of the United States to the extent that laws of such other state or of the United States permit such joint exercise or enjoyment. Any agency of the state government when acting jointly with any public agency may exercise and enjoy all of the powers, privileges and authority conferred by this chapter upon a public agency.

(2) Any two or more public agencies may enter into agreements with one another for joint or cooperative action pursuant to the provisions of this chapter, except that any such joint or cooperative action by public agencies which are educational service districts and/or school districts shall comply with the provisions of RCW 28A.320.080. Appropriate action by ordinance, resolution or otherwise pursuant to law of the governing bodies of the participating public agencies shall be necessary before any such agreement may enter into force.

(3) Any such agreement shall specify the following:

(a) Its duration;

(b) The precise organization, composition and nature of any separate legal or administrative entity created thereby together with the powers delegated thereto, provided such entity may be legally created. Such entity may include a nonprofit corporation organized pursuant to chapter 24.03A or 24.06 RCW whose membership is limited solely to the participating public agencies or a partnership organized pursuant to chapter 25.04 or 25.05 RCW whose partners are limited solely to participating public agencies, or a limited liability company organized under chapter 25.15 RCW whose membership is limited solely to participating public agencies, and the funds of any such corporation, partnership, or limited liability company shall be subject to audit in the manner provided by law for the auditing of public funds;

(c) Its purpose or purposes;

(d) The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget therefor;

(e) The permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination; and

(f) Any other necessary and proper matters.

(4) In the event that the agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking, the agreement shall contain, in addition to provisions specified in subsection (3)(a), (c), (d), (e), and (f) of this section, the following:

(a) Provision for an administrator or a joint board responsible for administering the joint or cooperative undertaking. In the case of a joint board, public agencies that are party to the agreement shall be represented; and

(b) The manner of acquiring, holding and disposing of real and personal property used in the joint or cooperative undertaking. Any joint board is authorized to establish a special fund with a state, county, city, or district treasurer servicing an involved public agency designated "Operating fund of . . . . . joint board."

(5) No agreement made pursuant to this chapter relieves any public agency of any obligation or responsibility imposed upon it by law except that:

(a) To the extent of actual and timely performance thereof by a joint board or other legal or administrative entity created by an agreement made pursuant to this chapter, the performance may be offered in satisfaction of the obligation or responsibility; and

(b) With respect to one or more public agencies purchasing or otherwise contracting through a bid, proposal, or contract awarded by another public agency or by a group of public agencies, any obligation with respect to competitive bids or proposals that applies to the public agencies involved is satisfied if the public agency or group of public agencies that awarded the bid, proposal, or contract complied with its own statutory requirements and either (i) posted the bid or solicitation notice on a website established and maintained by a public agency, purchasing cooperative, or similar service provider, for purposes of posting public notice of bid or proposal solicitations, or (ii) provided an access link on the state's web portal to the notice.

(6)(a) Any two or more public agencies may enter into a contract providing for the joint utilization of architectural or engineering services if:

(i) The agency contracting with the architectural or engineering firm complies with the requirements for contracting for such services under chapter 39.80 RCW; and

(ii) The services to be provided to the other agency or agencies are related to, and within the general scope of, the services the architectural or engineering firm was selected to perform.

(b) Any agreement providing for the joint utilization of architectural or engineering services under this subsection must be executed for a scope of work specifically detailed in the agreement and must be entered into prior to commencement of procurement of such services under chapter 39.80 RCW.

(7) Financing of joint projects by agreement shall be as provided by law.

(8) Transit agencies, as defined in RCW 81.104.015, are exempt from the interlocal agreement requirements of subsections (2) through (4) of this section when purchasing rolling stock and related equipment from state cooperative procurement schedules established under section 3019 of P.L. 114-94.

Passed by the Senate February 15, 2023.

Passed by the House March 24, 2023.

Approved by the Governor April 6, 2023.

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CHAPTER 44

[Senate Bill 5370]

ABUSE OF VULNERABLE ADULTS—VARIOUS PROVISIONS

AN ACT Relating to adult protective services; and amending RCW 74.34.020, 74.34.063, 74.34.095, and 68.50.105.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 74.34.020 and 2021 c 215 s 162 are each amended to read as follows:

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

(1) "Abandonment" means action or inaction by a person or entity with a duty of care for a vulnerable adult that leaves the vulnerable person without the means or ability to obtain necessary food, clothing, shelter, or health care.

(2) "Abuse" means the intentional, willful, or reckless action or inaction that inflicts injury, unreasonable confinement, intimidation, or punishment on a vulnerable adult. In instances of abuse of a vulnerable adult who is unable to express or demonstrate physical harm, pain, or mental anguish, the abuse is presumed to cause physical harm, pain, or mental anguish. Abuse includes sexual abuse, mental abuse, physical abuse, and personal exploitation of a vulnerable adult, and improper use of restraint against a vulnerable adult which have the following meanings:

(a) "Sexual abuse" means any form of nonconsensual sexual conduct, including but not limited to unwanted or inappropriate touching, rape, molestation, indecent liberties, sexual coercion, sexually explicit photographing or recording, voyeurism, indecent exposure, and sexual harassment. Sexual abuse also includes any sexual conduct between a staff person, who is not also a resident or client, of a facility or a staff person of a program authorized under chapter 71A.12 RCW, and a vulnerable adult living in that facility or receiving service from a program authorized under chapter 71A.12 RCW, whether or not it is consensual.

(b) "Physical abuse" means the intentional, willful, or reckless action of inflicting bodily injury or physical mistreatment. Physical abuse includes, but is not limited to, striking with or without an object, slapping, pinching, choking, kicking, shoving, or prodding.

(c) "Mental abuse" means an intentional, willful, or reckless verbal or nonverbal action that threatens, humiliates, harasses, coerces, intimidates, isolates, unreasonably confines, or punishes a vulnerable adult. Mental abuse may include ridiculing, yelling, or swearing.

(d) "Personal exploitation" means an act of forcing, compelling, or exerting undue influence over a vulnerable adult causing the vulnerable adult to act in a way that is inconsistent with relevant past behavior, or causing the vulnerable adult to perform services for the benefit of another.

(e) "Improper use of restraint" means the inappropriate use of chemical, physical, or mechanical restraints for convenience or discipline or in a manner that: (i) Is inconsistent with federal or state licensing or certification

requirements for facilities, hospitals, or programs authorized under chapter 71A.12 RCW; (ii) is not medically authorized; or (iii) otherwise constitutes abuse under this section.

(3) "Chemical restraint" means the administration of any drug to manage a vulnerable adult's behavior in a way that reduces the safety risk to the vulnerable adult or others, has the temporary effect of restricting the vulnerable adult's freedom of movement, and is not standard treatment for the vulnerable adult's medical or psychiatric condition.

(4) "Consent" means express written consent granted after the vulnerable adult or his or her legal representative has been fully informed of the nature of the services to be offered and that the receipt of services is voluntary.

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

(6) "Facility" means a residence licensed or required to be licensed under chapter 18.20 RCW, assisted living facilities; chapter 18.51 RCW, nursing homes; chapter 70.128 RCW, adult family homes; chapter 72.36 RCW, soldiers' homes; chapter 71A.20 RCW, residential habilitation centers; or any other facility licensed or certified by the department.

(7) "Financial exploitation" means the illegal or improper use, control over, or withholding of the property, income, resources, or trust funds of the vulnerable adult by any person or entity for any person's or entity's profit or advantage other than for the vulnerable adult's profit or advantage. "Financial exploitation" includes, but is not limited to:

(a) The use of deception, intimidation, or undue influence by a person or entity in a position of trust and confidence with a vulnerable adult to obtain or use the property, income, resources, or trust funds of the vulnerable adult for the benefit of a person or entity other than the vulnerable adult;

(b) The breach of a fiduciary duty, including, but not limited to, the misuse of a power of attorney, trust, or a guardianship appointment, that results in the unauthorized appropriation, sale, or transfer of the property, income, resources, or trust funds of the vulnerable adult for the benefit of a person or entity other than the vulnerable adult; or

(c) Obtaining or using a vulnerable adult's property, income, resources, or trust funds without lawful authority, by a person or entity who knows or clearly should know that the vulnerable adult lacks the capacity to consent to the release or use of his or her property, income, resources, or trust funds.

(8) "Financial institution" has the same meaning as in RCW 30A.22.040 and 30A.22.041. For purposes of this chapter only, "financial institution" also means a "broker-dealer" or "investment adviser" as defined in RCW 21.20.005.

(9) "Hospital" means a facility licensed under chapter 70.41 or 71.12 RCW or a state hospital defined in chapter 72.23 RCW and any employee, agent, officer, director, or independent contractor thereof.

(10) "Individual provider" ((~~means a person under contract with the department to provide services in the home under chapter 74.09 or 74.39A RCW~~)) has the same meaning as in RCW 74.39A.240.

(11) "Interested person" means a person who demonstrates to the court's satisfaction that the person is interested in the welfare of the vulnerable adult, that the person has a good faith belief that the court's intervention is necessary, and that the vulnerable adult is unable, due to incapacity, undue influence, or duress at the time the petition is filed, to protect his or her own interests.

(12)(a) "Isolate" or "isolation" means to restrict a vulnerable adult's ability to communicate, visit, interact, or otherwise associate with persons of his or her choosing. Isolation may be evidenced by acts including but not limited to:

(i) Acts that prevent a vulnerable adult from sending, making, or receiving his or her personal mail, electronic communications, or telephone calls; or

(ii) Acts that prevent or obstruct the vulnerable adult from meeting with others, such as telling a prospective visitor or caller that a vulnerable adult is not present, or does not wish contact, where the statement is contrary to the express wishes of the vulnerable adult.

(b) The term "isolate" or "isolation" may not be construed in a manner that prevents a guardian or limited guardian from performing his or her fiduciary obligations under chapter 11.130 RCW or prevents a hospital or facility from providing treatment consistent with the standard of care for delivery of health services.

(13) "Mandated reporter" is an employee of the department or the department of children, youth, and families; law enforcement officer; social worker; professional school personnel; individual provider; ((~~an employee of a facility;~~)) an operator of a facility or a certified residential services and supports agency under chapter 71A.12 RCW; an employee of a facility; an employee of a social service, welfare, mental health, adult day health, adult day care, home health, home care, ((~~or~~)) hospice, or certified residential services and supports agency; county coroner or medical examiner; Christian Science practitioner; or health care provider subject to chapter 18.130 RCW.

(14) "Mechanical restraint" means any device attached or adjacent to the vulnerable adult's body that he or she cannot easily remove that restricts freedom of movement or normal access to his or her body. "Mechanical restraint" does not include the use of devices, materials, or equipment that are (a) medically authorized, as required, and (b) used in a manner that is consistent with federal or state licensing or certification requirements for facilities, hospitals, or programs authorized under chapter 71A.12 RCW.

(15) "Neglect" means (a) a pattern of conduct or inaction by a person or entity with a duty of care that fails to provide the goods and services that maintain physical or mental health of a vulnerable adult, or that fails to avoid or prevent physical or mental harm or pain to a vulnerable adult; or (b) an act or omission by a person or entity with a duty of care that demonstrates a serious disregard of consequences of such a magnitude as to constitute a clear and present danger to the vulnerable adult's health, welfare, or safety, including but not limited to conduct prohibited under RCW 9A.42.100.

(16) "Permissive reporter" means any person, including, but not limited to, an employee of a financial institution, attorney, or volunteer in a facility or program providing services for vulnerable adults.

(17) "Physical restraint" means the application of physical force without the use of any device, for the purpose of restraining the free movement of a vulnerable adult's body. "Physical restraint" does not include (a) briefly holding without undue force a vulnerable adult in order to calm or comfort him or her, or (b) holding a vulnerable adult's hand to safely escort him or her from one area to another.

(18) "Protective services" means any services provided by the department to a vulnerable adult with the consent of the vulnerable adult, or the legal

representative of the vulnerable adult, who has been abandoned, abused, financially exploited, neglected, or in a state of self-neglect. These services may include, but are not limited to case management, social casework, home care, placement, arranging for medical evaluations, psychological evaluations, day care, or referral for legal assistance.

(19) "Self-neglect" means the failure of a vulnerable adult, not living in a facility, to provide for himself or herself the goods and services necessary for the vulnerable adult's physical or mental health, and the absence of which impairs or threatens the vulnerable adult's well-being. This definition may include a vulnerable adult who is receiving services through home health, hospice, or a home care agency, or an individual provider when the neglect is not a result of inaction by that agency or individual provider.

(20) "Social worker" means:

(a) A social worker as defined in RCW 18.320.010(2); or

(b) Anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support, or education of vulnerable adults, or providing social services to vulnerable adults, whether in an individual capacity or as an employee or agent of any public or private organization or institution.

(21) "Vulnerable adult" includes a person:

(a) Sixty years of age or older who has the functional, mental, or physical inability to care for himself or herself; or

(b) Subject to a guardianship under RCW 11.130.265 or adult subject to conservatorship under RCW 11.130.360; or

(c) Who has a developmental disability as defined under RCW 71A.10.020; or

(d) Admitted to any facility; or

(e) Receiving services from home health, hospice, or home care agencies licensed or required to be licensed under chapter 70.127 RCW; or

(f) Receiving services from an individual provider; or

(g) Who self-directs his or her own care and receives services from a personal aide under chapter 74.39 RCW.

(22) "Vulnerable adult advocacy team" means a team of three or more persons who coordinate a multidisciplinary process, in compliance with chapter 266, Laws of 2017 and the protocol governed by RCW 74.34.320, for preventing, identifying, investigating, prosecuting, and providing services related to abuse, neglect, or financial exploitation of vulnerable adults.

Sec. 2. RCW 74.34.063 and 2017 3rd sp.s. c 6 s 818 are each amended to read as follows:

(1) The department shall initiate a response to a report, no later than twenty-four hours after knowledge of the report, of suspected abandonment, abuse, financial exploitation, neglect, or self-neglect of a vulnerable adult.

(2) When the initial report or investigation by the department indicates that the alleged abandonment, abuse, financial exploitation, or neglect may be criminal, the department shall make an immediate report to the appropriate law enforcement agency. The department and law enforcement will coordinate in investigating reports made under this chapter. The department may provide protective services and other remedies as specified in this chapter.

(3) The law enforcement agency or the department shall report the incident in writing to the proper county prosecutor or city attorney for appropriate action whenever the investigation reveals that a crime may have been committed.

(4) ((~~The~~)) Upon request, the department and law enforcement ((~~may~~)) shall share information contained in reports and findings of abandonment, abuse, financial exploitation, and neglect of vulnerable adults with each other, consistent with RCW 74.04.060, chapter 42.56 RCW, and other applicable confidentiality laws.

(5) Unless prohibited by federal law, the department of social and health services may share with the department of children, youth, and families information contained in reports and findings of abandonment, abuse, financial exploitation, and neglect of vulnerable adults.

(6) The department shall notify the proper licensing authority concerning any report received under this chapter that alleges that a person who is professionally licensed, certified, or registered under Title 18 RCW has abandoned, abused, financially exploited, or neglected a vulnerable adult.

Sec. 3. RCW 74.34.095 and 2013 c 23 s 218 are each amended to read as follows:

(1) The following information is confidential and not subject to disclosure, except as provided in this section:

(a) A report of abandonment, abuse, financial exploitation, or neglect made under this chapter;

(b) The identity of the person making the report; and

(c) All files, reports, records, communications, and working papers used or developed in the investigation or provision of protective services.

(2) Information considered confidential may be disclosed only for a purpose consistent with this chapter or as authorized by chapter 18.20, 18.51, or 74.39A RCW, ((~~or as authorized by~~)) the long-term care ombuds programs under federal law or state law, chapter 43.190 RCW, or the office of the developmental disabilities ombuds program under chapter 43.382 RCW.

(3) A court or presiding officer in an administrative proceeding may order disclosure of confidential information only if the court, or presiding officer in an administrative proceeding, determines that disclosure is essential to the administration of justice and will not endanger the life or safety of the vulnerable adult or individual who made the report. The court or presiding officer in an administrative hearing may place restrictions on such disclosure as the court or presiding officer deems proper.

(4)(a) Except as provided in (b) of this subsection, upon a request for information regarding a specifically named vulnerable adult, the department may disclose only the following information:

(i) Whether or not a report was received;

(ii) The status of the report; and

(iii) The outcome of an investigation.

(b) The department may not disclose any information regarding a specifically named vulnerable adult if any of the following circumstances apply:

(i) The information concerns a vulnerable adult residing in or receiving services from a department licensed or certified facility or provider where an unannounced investigation in response to the report has not been initiated;

(ii) The requester is the alleged perpetrator;

(iii) The department has a reasonable belief that disclosure may compromise any investigation by a law enforcement agency, disciplinary authority, the department, or the department of children, youth, and families; or

(iv) The department has a reasonable belief that the information may endanger any person.

Sec. 4. RCW 68.50.105 and 2019 c 470 s 14 are each amended to read as follows:

(1) Reports and records of autopsies or postmortems shall be confidential, except that the following persons may examine and obtain copies of any such report or record: The personal representative of the decedent as defined in RCW 11.02.005, any family member, the attending physician or advanced registered nurse practitioner, the prosecuting attorney or law enforcement agencies having jurisdiction, public health officials, the department of labor and industries in cases in which it has an interest under RCW 68.50.103, ((~~or~~)) the secretary of the department of children, youth, and families or his or her designee in cases being reviewed under RCW 74.13.640, or the secretary of the department of social and health services or his or her designee under chapter 74.34 RCW.

(2)(a) Notwithstanding the restrictions contained in this section regarding the dissemination of records and reports of autopsies or postmortems, nor the exemptions referenced under RCW 42.56.240(1), nothing in this chapter prohibits a coroner, medical examiner, or his or her designee, from publicly discussing his or her findings as to any death subject to the jurisdiction of his or her office where actions of a law enforcement officer or corrections officer have been determined to be a proximate cause of the death, except as provided in (b) of this subsection.

(b) A coroner, medical examiner, or his or her designee may not publicly discuss his or her findings outside of formal court or inquest proceedings if there is a pending or active criminal investigation, or a criminal or civil action, concerning a death that has commenced prior to January 1, 2014.

(3) The coroner, the medical examiner, or the attending physician shall, upon request, meet with the family of the decedent to discuss the findings of the autopsy or postmortem. For the purposes of this section, the term "family" means the surviving spouse, state registered domestic partner, or any child, parent, grandparent, grandchild, brother, or sister of the decedent, or any person who was guardian of the decedent at the time of death.

Passed by the Senate February 28, 2023.
Passed by the House March 24, 2023.
Approved by the Governor April 6, 2023.
Filed in Office of Secretary of State April 6, 2023.

CHAPTER 45

[Senate Bill 5421]

HEALTH BENEFIT ENROLLMENT INFORMATION—PUBLIC RECORDS ACT EXEMPTION

AN ACT Relating to exempting benefit enrollment information collected and maintained by the health care authority from public inspection and copying under the public records act; and amending RCW 42.56.250.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 42.56.250 and 2020 c 106 s 1 are each amended to read as follows:

(1) The following employment and licensing information is exempt from public inspection and copying under this chapter:

(((~~(1)~~))) (a) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination;

(((~~(2)~~))) (b) All applications for public employment other than for vacancies in elective office, including the names of applicants, resumes, and other related materials submitted with respect to an applicant;

(((~~(3)~~))) (c) Professional growth plans (PGPs) in educator license renewals submitted through the eCert system in the office of the superintendent of public instruction;

(((~~(4)~~))) (d) The following information held by any public agency in personnel records, public employment related records, volunteer rosters, or included in any mailing list of employees or volunteers of any public agency: Residential addresses, residential telephone numbers, personal wireless telephone numbers, personal email addresses, social security numbers, driver's license numbers, identicard numbers, payroll deductions including the amount and identification of the deduction, and emergency contact information of employees or volunteers of a public agency, and the names, dates of birth, residential addresses, residential telephone numbers, personal wireless telephone numbers, personal email addresses, social security numbers, and emergency contact information of dependents of employees or volunteers of a public agency. For purposes of this subsection (1)(d), "employees" includes independent provider home care workers as defined in RCW 74.39A.240;

(((~~(5)~~))) (e) Information that identifies a person who, while an agency employee: (((~~(a)~~))) (i) Seeks advice, under an informal process established by the employing agency, in order to ascertain his or her rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and (((~~(b)~~))) (ii) requests his or her identity or any identifying information not be disclosed;

(((~~(6)~~))) (f) Investigative records compiled by an employing agency in connection with an investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws or an employing agency's internal policies prohibiting discrimination or harassment in employment. Records are exempt in their entirety while the investigation is active and ongoing. After the agency has notified the complaining employee of the outcome of the investigation, the records may be disclosed only if the names of complainants, other accusers, and witnesses are redacted, unless a complainant, other accuser, or witness has consented to the disclosure of his or her name. The employing agency must inform a complainant, other accuser, or witness that his or her name will be redacted from the investigation records unless he or she consents to disclosure;

(((~~(7)~~))) (g) Criminal history records checks for board staff finalist candidates conducted pursuant to RCW 43.33A.025;

(((~~(8)~~))) (h) Photographs and month and year of birth in the personnel files of employees or volunteers of a public agency, including employees and workers of criminal justice agencies as defined in RCW 10.97.030. The news media, as defined in RCW 5.68.010(5), shall have access to the photographs and full date of birth. For the purposes of this subsection (1)(h), news media does not include

any person or organization of persons in the custody of a criminal justice agency as defined in RCW 10.97.030;

((~~(9)~~)) (i) The global positioning system data that would indicate the location of the residence of a public employee or volunteer using the global positioning system recording device;

((~~(10)~~)) (j) Until the person reaches eighteen years of age, information, otherwise disclosable under chapter 29A.08 RCW, that relates to a future voter, except for the purpose of processing and delivering ballots; ((~~and~~

~~(11)~~)) (k) Voluntarily submitted information collected and maintained by a state agency or higher education institution that identifies an individual state employee's personal demographic details. "Personal demographic details" means race or ethnicity, sexual orientation as defined by RCW 49.60.040((~~(26)~~)) (27), immigration status, national origin, or status as a person with a disability. This exemption does not prevent the release of state employee demographic information in a deidentified or aggregate format; and

(l) Benefit enrollment information collected and maintained by the health care authority through its authority as director of the public employees' benefits board and school employees' benefits board programs as authorized by chapter 41.05 RCW. This subsection (1)(l) does not prevent the release of benefit enrollment information in a deidentified or aggregate format. "Benefit enrollment information" means:

(i) Information listed in (d) of this subsection;

(ii) Personal demographic details as defined in (k) of this subsection;

(iii) Benefit elections;

(iv) Date of birth;

(v) Documents provided for verification of dependency, such as tax returns or marriage or birth certificates;

(vi) Marital status;

(vii) Primary language spoken;

(viii) Tobacco use status; and

(ix) Tribal affiliation.

((~~(12)~~)) (2) Upon receipt of a request for information located exclusively in an employee's personnel, payroll, supervisor, or training file, the agency must provide notice to the employee, to any union representing the employee, and to the requestor. The notice must state:

(a) The date of the request;

(b) The nature of the requested record relating to the employee;

(c) That the agency will release any information in the record which is not exempt from the disclosure requirements of this chapter at least ten days from the date the notice is made; and

(d) That the employee may seek to enjoin release of the records under RCW 42.56.540.

Passed by the Senate February 15, 2023.

Passed by the House March 24, 2023.

Approved by the Governor April 6, 2023.

Filed in Office of Secretary of State April 6, 2023.

CHAPTER 46

[Substitute Senate Bill 5439]

LIVESTOCK INSPECTION AND IDENTIFICATION—FEES

AN ACT Relating to livestock identification; amending RCW 16.57.015, 16.57.015, 16.57.220, 16.57.460, 16.58.130, and 16.65.090; amending 2022 c 158 s 1 (uncodified); providing an effective date; and providing expiration dates.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 16.57.015 and 2019 c 92 s 1 are each amended to read as follows:

(1) The director shall establish a livestock identification advisory committee. The committee shall be composed of ((~~twelve~~)) 12 voting members appointed by the director as follows: Two beef producers, two cattle feeders, two dairy producers, two livestock market owners, two meat processors, and two horse producers. Organizations representing the groups represented on the committee may submit nominations for these appointments to the director for the director's consideration. No more than two members at the time of their appointment or during their term may reside in the same county. Members may be reappointed and vacancies must be filled in the same manner as original appointments are made. As used in this subsection, "meat processor" means a person licensed to operate a slaughtering establishment under chapter 16.49 RCW or the federal meat inspection act (21 U.S.C. Sec. 601 et seq.). In making appointments, the director shall solicit nominations from organizations representing these groups statewide. The committee shall elect a member to serve as chair of the committee. The committee must meet at least twice a year. The committee shall meet at the call of the director, chair, or a majority of the committee. A quorum of the committee consists of a majority of members. If a member has not been designated for a position set forth in this section, that position may not be counted for purposes of determining a quorum. A member may appoint an alternate who meets the same qualifications as the member to serve during the member's absence. The director may remove a member from the committee if that member has two or more unexcused absences during a single calendar year.

(2) The purpose of the committee is to provide advice to the director regarding livestock identification programs administered under this chapter and regarding inspection fees and related licensing fees. The advisory committee must review the costs and operations of the livestock identification program. The director shall consult the committee before adopting, amending, or repealing a rule under this chapter or altering a fee under RCW 16.58.050, 16.65.030, 16.65.037, or 16.65.090. If the director publishes in the ((~~state register~~)) Washington State Register a proposed rule to be adopted under the authority of this chapter and the rule has not received the approval of the advisory committee, the director shall file with the committee a written statement setting forth the director's reasons for proposing the rule without the committee's approval.

(3) The members of the advisory committee serve three-year terms. However, the director shall by rule provide shorter initial terms for some of the members of the committee to stagger the expiration of the initial terms. The members serve without compensation. The director may authorize the expenses of a member to be reimbursed if the member is selected to attend a regional or

national conference or meeting regarding livestock identification. Any such reimbursement shall be in accordance with RCW 43.03.050 and 43.03.060.

Sec. 2. RCW 16.57.015 and 2011 1st sp.s. c 21 s 51 are each amended to read as follows:

(1) The director shall establish a livestock identification advisory committee. The committee shall be composed of six members appointed by the director. One member shall represent each of the following groups: Beef producers, public livestock market operators, horse owners, dairy farmers, cattle feeders, and meat processors. As used in this subsection, "meat processor" means a person licensed to operate a slaughtering establishment under chapter 16.49 RCW or the federal meat inspection act (21 U.S.C. Sec. 601 et seq.). In making appointments, the director shall solicit nominations from organizations representing these groups statewide. The committee shall elect a member to serve as chair of the committee.

(2) The purpose of the committee is to provide advice to the director regarding livestock identification programs administered under this chapter and regarding inspection fees and related licensing fees. The advisory committee must review the costs and operations of the livestock identification program. The director shall consult the committee before adopting, amending, or repealing a rule under this chapter or altering a fee under RCW 16.58.050, 16.65.030, 16.65.037, or 16.65.090. If the director publishes in the ((~~state register~~)) Washington State Register a proposed rule to be adopted under the authority of this chapter and the rule has not received the approval of the advisory committee, the director shall file with the committee a written statement setting forth the director's reasons for proposing the rule without the committee's approval.

(3) The members of the advisory committee serve three-year terms. However, the director shall by rule provide shorter initial terms for some of the members of the committee to stagger the expiration of the initial terms. The members serve without compensation. The director may authorize the expenses of a member to be reimbursed if the member is selected to attend a regional or national conference or meeting regarding livestock identification. Any such reimbursement shall be in accordance with RCW 43.03.050 and 43.03.060.

Sec. 3. RCW 16.57.220 and 2019 c 92 s 5 are each amended to read as follows:

(1) Except as provided for in RCW 16.65.090 and otherwise in this section, the fee for livestock inspection is ((~~four dollars~~)) $4 per head for cattle and ((~~three dollars and eighty-five cents~~)) $3.85 for horses, with a call out fee of ((~~twenty dollars~~)) $20.

(2) When cattle are identified with the owner's brand, electronic official individual identification, or other form of identification specified by the director by rule, the fee for livestock inspection is ((~~one dollar and twenty-one cents~~)) $1.21 per head, with a call out fee of ((~~twenty dollars~~)) $20.

(3) No inspection fee is charged for a calf that is inspected before moving out-of-state under an official temporary grazing permit if the calf is part of a cow-calf unit and the calf is identified with the owner's Washington-recorded brand or other form of identification specified by the director by rule.

(4) The fee for inspection of cattle at a processing plant with a daily capacity of no more than ((~~five hundred~~)) 500 head of cattle where the United States department of agriculture maintains a meat inspection program is ((~~four dollars and forty cents~~)) $4.40 per head, with a call out fee of ((~~twenty dollars~~)) $20.

(5) When a single inspection certificate is issued for ((~~thirty~~)) 30 or more horses belonging to one person, the fee for livestock inspection is ((~~two dollars and twenty cents~~)) $2.20 per head, with a call out fee of ((~~twenty dollars~~)) $20.

(6) The fee for individual identification certificates is ((~~twenty-two dollars~~)) $22 for an annual certificate and ((~~sixty-three dollars~~)) $63 for a lifetime certificate, with a call out fee of ((~~twenty dollars~~)) $20. However, the fee for an annual certificate listing ((~~thirty~~)) 30 or more animals belonging to one person is ((~~five dollars and fifty cents~~)) $5.50 per head, with a call out fee of ((~~twenty dollars~~)) $20. A lifetime certificate shall not be issued until the fee has been paid to the director.

(7) The minimum fee for the issuance of an inspection certificate by the director is ((~~five dollars and fifty cents~~)) $5.50. The minimum fee does not apply to livestock consigned to a public livestock market or special sale or inspected at a cattle processing plant.

(8) No call out fee is charged for an inspection done by a certified veterinarian or field livestock inspector.

Sec. 4. RCW 16.57.460 and 2022 c 158 s 2 are each amended to read as follows:

(1) The department shall submit a livestock inspection program report pursuant to RCW 43.01.036 by ((~~September 1, 2020~~)) November 1, 2023, and annually thereafter, to the appropriate committees of the legislature having oversight over agriculture and fiscal matters. The report must also be submitted to the livestock identification advisory committee created in RCW 16.57.015. The report must include amounts collected, a report on program expenditures, and any recommendations for making the program more efficient, improving the program, or modifying livestock inspection fees to cover the costs of the program. The report must also address the financial status of the program, including whether there is a need to review fees so that the program continues to be supported by fees.

(2) This section expires July 1, ((~~2024~~)) 2026.

Sec. 5. RCW 16.58.130 and 2019 c 92 s 8 are each amended to read as follows:

Each licensee shall pay to the director a fee of ((~~twenty-eight~~)) 28 cents for each head of cattle handled through the licensee's feed lot. The licensee must pay a call out fee of ((~~twenty dollars~~)) $20 to the department for each day and for each livestock inspector((~~, certified veterinarian, or field livestock inspector~~)) who performs inspections at each certified feed lot. Payment of the fees shall be made by the licensee on a monthly basis. Failure to pay as required shall be grounds for suspension or revocation of a certified feed lot license. The director shall not renew a certified feed lot license if a licensee has failed to make prompt and timely payments. No call out fee is charged for an inspection done by a certified veterinarian or field livestock inspector.

Sec. 6. RCW 16.65.090 and 2019 c 92 s 11 are each amended to read as follows:

When livestock inspection is required the licensee shall collect from the consignor and pay to the department an inspection fee, as provided by law, for each animal inspected. However, if in any one sale day the total fees collected for inspection do not exceed ((~~one hundred fifty dollars~~)) $150, then the licensee shall pay ((~~one hundred fifty dollars~~)) $150 for the inspection services. The licensee must pay a call out fee of ((~~twenty dollars~~)) $20 to the department for each day and for each livestock inspector((~~, certified veterinarian, or field livestock inspector~~)) who performs inspections at a public livestock market. No call out fee is charged for an inspection done by a certified veterinarian or field livestock inspector.

Sec. 7. 2022 c 158 s 1 (uncodified) is amended to read as follows:

Sections 1, 5, 8, and 11 of this act expire July 1, ((~~2024~~)) 2026.

NEW SECTION. **Sec. 8.** Sections 1, 3, 5, and 6 of this act expire July 1, 2026.

NEW SECTION. **Sec. 9.** Section 2 of this act takes effect July 1, 2026.

Passed by the Senate March 2, 2023.
Passed by the House March 24, 2023.
Approved by the Governor April 6, 2023.
Filed in Office of Secretary of State April 6, 2023.

CHAPTER 47

[Senate Bill 5553]

TEMPORARY EMERGENCY SHELTERS—BUILDING CODE STANDARDS

AN ACT Relating to authorizing standards for temporary emergency shelters for local adoption; and amending RCW 19.27.042.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 19.27.042 and 1991 c 139 s 1 are each amended to read as follows:

(1) Effective January 1, 1992, the legislative authorities of cities and counties may adopt an ordinance or resolution to exempt from state building code requirements buildings whose character of use or occupancy has been changed in order to provide housing for indigent persons. The ordinance or resolution allowing the exemption shall include the following conditions:

(a) The exemption is limited to existing buildings located in this state;

(b) Any code deficiencies to be exempted pose no threat to human life, health, or safety;

(c) The building or buildings exempted under this section are owned or administered by a public agency or nonprofit corporation; and

(d) The exemption is authorized for no more than five years on any given building. An exemption for a building may be renewed if the requirements of this section are met for each renewal.

(2) By January 1, 1992, the state building code council shall adopt, by rule, guidelines for cities and counties exempting buildings under subsection (1) of this section.

(3) By July 1, 2026, the state building code council shall adopt, by rule, standards for temporary emergency shelters and make them available for local adoption.

Passed by the Senate February 27, 2023.
Passed by the House March 24, 2023.
Approved by the Governor April 6, 2023.
Filed in Office of Secretary of State April 6, 2023.

CHAPTER 48

[Substitute Senate Bill 5569]

KIDNEY DISEASE CENTERS—EMERGENCY CERTIFICATE OF NEED EXEMPTIONS

AN ACT Relating to creating exemptions from certificate of need requirements for kidney disease centers due to temporary emergency situations; and adding a new section to chapter 70.38 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 70.38 RCW to read as follows:

(1) Notwithstanding RCW 70.38.105(4)(h), a kidney disease center may be granted an exemption to exceed its authorized number of dialysis stations during a temporary emergency situation upon approval of the department.

(2) A temporary emergency situation is defined to include:

(a) Natural disasters, such as earthquakes, floods, fires, or snowstorms that limit or restrict access to one or more kidney disease centers thereby creating a need for additional capacity at other centers;

(b) Power outages or water system shutdowns;

(c) Mold remediations or other physical plant issues that would put patient safety at risk;

(d) Staffing shortages that require kidney disease center reconfiguration to facilitate delivery of dialysis services as long as the facility does not exceed the number of patients served at the time of the exemption request. If granted, an exemption under this subsection (2)(d) is valid for 90 days, and may be extended at 90-day increments at the discretion of the department; and

(e) Any additional temporary emergency situations as included by the department in rule.

(3) In order to be granted an exemption, a kidney dialysis center must make a written request to the department that may be sent by email, and include the following information:

(a) A brief description of the circumstances requiring the exemption;

(b) The number of additional dialysis stations required to meet patient needs, and except as noted in subsection (2)(d) of this section, the expected duration that the additional stations will be required to address patient needs; and

(c) An acknowledgment that:

(i) Patient safety, health, or well-being are not being threatened;

(ii) Fire and life safety regulations, infection control standards, or other applicable codes or regulations will not be reduced; and

(iii) Structural integrity of the building will not be impaired.

(4) Approval of an exemption does not authorize a kidney disease center to permanently increase the number of dialysis stations. If a kidney disease center seeks a permanent increase in approved stations, a certificate of need review and approval is required.

(5) The department may adopt any rules necessary to implement this section.

Passed by the Senate March 2, 2023.
Passed by the House March 23, 2023.
Approved by the Governor April 6, 2023.
Filed in Office of Secretary of State April 6, 2023.

CHAPTER 49

[Substitute Senate Bill 5627]

COUNTY COMMISSIONERS AND COUNCILMEMBERS—SALARY CHANGES

AN ACT Relating to salaries for county commissioners and councilmembers; and amending RCW 36.17.024.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 36.17.024 and 2001 c 73 s 5 are each amended to read as follows:

(1) Salaries for county commissioners and councilmembers may be set by county commissioner and councilmember salary commissions established by ordinance or resolution of the county legislative authority and in conformity with this section.

(2) Commissions established under subsection (1) of this section shall be known as the (Insert name of county) county citizens' commission on salaries for elected officials. Each commission shall consist of ((~~ten~~)) members appointed by the county commissioner or executive with the approval of the county legislative authority, or by a majority vote of the county legislative authority if there is no single county commissioner or executive, as provided in this section.

(3)(a) ((~~Six~~)) For charter counties, six of the ten commission members shall be selected by lot by the county auditor from among those registered voters eligible to vote at the time persons are selected for appointment to full terms on the commission under (c) of this subsection. ((~~In noncharter counties, the county auditor shall select two commission members living in each commissioner's district.~~)) The county auditor shall establish policies and procedures for conducting the selection by lot. The policies and procedures shall include, but not be limited to, those for notifying persons selected and for providing a new selection from a commissioner's district if a person selected from the district declines appointment to the commission or if, following the person's appointment, the person's position on the commission becomes vacant before the end of the person's term of office.

(b) The remaining four of the ten commission members must be residents of the county and shall be appointed by the county commissioner or executive with approval of the county legislative authority, or by a majority vote of the county legislative authority if there is no single county commissioner or executive. The persons selected under this subsection shall have had experience in the field of personnel management. Of these four members, one shall be selected from each

of the following four sectors in the county: Business, professional personnel management, legal profession, and organized labor.

(c) If there is a single county commissioner or executive, the county auditor shall forward the names of persons selected under (a) of this subsection to the county commissioner or executive who shall appoint these persons to the commission.

(d) No person may be appointed to more than two terms. No member of the commission may be removed by the county commissioner or executive, or county legislative authority if there is no single county commissioner or executive, during his or her term of office unless for cause of incapacity, incompetence, neglect of duty, or malfeasance in office, or for a disqualifying change of residence.

(e) The members of the commission may not include any officer, official, or employee of the county or any of their immediate family members. "Immediate family member" as used in this subsection means the parents, spouse, siblings, children, or dependent relatives of the officer, official, or employee, whether or not living in the household of the officer, official, or employee.

(f) Upon a vacancy in any position on the commission, a successor shall be selected and appointed to fill the unexpired term. The selection and appointment shall be concluded within thirty days of the date the position becomes vacant and shall be conducted in the same manner as for the original appointment.

((~~(3)~~)) (4) For noncharter counties, commission members must be registered voters eligible to vote at the time persons are selected for appointment to full terms on the commission.

(a) The county auditor must select, by lot, at least one commission member living in each commissioner's district. The county auditor must establish policies and procedures for conducting the selection by lot. The policies and procedures must include, but not be limited to, those for notifying persons selected and for providing a new selection from a commissioner's district if a person selected from the district declines appointment to the commission or if, following the person's appointment, the person's position on the commission becomes vacant before the end of the person's term of office.

(b) By majority vote of the county legislative authority, additional commission members may be appointed. These additional commission members must be residents of the county. The persons selected under this subsection must have experience in the field of personnel management or a related field.

(c) The number of salary commission members selected by lot must constitute the majority of commission members.

(d) No person may be appointed to serve more than two terms. No member of the commission may be removed by the county legislative authority during his or her term of office unless for cause of incapacity, incompetence, neglect of duty, or malfeasance in office, or for a disqualifying change of residence.

(e) The members of the commission may not include any officer, official, or employee of the county or any of their immediate family members. For purposes of this subsection, "immediate family member" means the parents, spouse, siblings, children, or dependent relatives of the officer, official, or employee, whether or not living in the household of the officer, official, or employee.

(f) Upon a vacancy in any position on the commission, a successor must be selected and appointed to fill the unexpired term. The selection and appointment

must be concluded within 30 days of the date the position becomes vacant and must be conducted in the same manner as for the original appointment.

(g) Commissions established by ordinance or resolution of the county legislative authority in existence prior to the effective date of an increase in the number of board of commissioners from three to five under either RCW 36.32.052 or 36.32.055 may retain their composition for one year after the start of the terms of the newly created county commissioner positions or until changed in accordance with this section, whichever occurs first.

(5) Any change in salary shall be filed by the commission with the county auditor and shall become effective and incorporated into the county budget without further action of the county legislative authority or salary commission.

((~~(4)~~)) (6) Salary increases established by the commission shall be effective as to county commissioners and all members of the county legislative authority, regardless of their terms of office.

((~~(5)~~)) (7) Salary decreases established by the commission shall become effective as to incumbent county commissioners and councilmembers at the commencement of their next subsequent terms of office.

((~~(6)~~)) (8) Salary increases and decreases shall be subject to referendum petition by the people of the county ((~~in the same manner as a county ordinance~~)) upon filing of such petition with the county auditor within ((~~thirty~~)) 30 days after filing of the salary schedule.

(a) For a charter county, the petition must be subject to referendum in accordance with the charter.

(b) For a noncharter county, the petition must be subject to referendum as follows: Within 10 days of the date of the petition, the county auditor or their designee must confer with the petitioner concerning form and style of the petition, issue an identification number for the petition, and the prosecuting attorney must write a ballot title for the measure. The ballot title must be posed as a question so that an affirmative answer to the question and an affirmative vote on the measure results in the change in salary and a negative answer to the question and a negative vote on the measure results in no change. The petitioner must be notified of the identification number and ballot title within this 10-day period. After this notification, the petitioner has 30 days in which to secure on petition forms the signatures of not less than 15 percent of the registered voters of the county at the last general election, and to file the signed petitions with the county auditor. Each petition form must contain the ballot title and the full text of the measure to be referred. The county auditor must verify the sufficiency of the signatures on the petitions and determine the validity of the referendum petition.

(9) In the event of the filing of a valid referendum petition, the salary increase or decrease shall not go into effect until approved by vote of the people. If the county auditor determines the number of verified signatures insufficient or the referendum petition invalid, the salary change takes effect on the date specified for the salary change filed by the commission in subsection (5) of this section.

((~~(7)~~)) (10) Referendum measures under this section shall be submitted to the voters of the county at the next following general or municipal election occurring ((~~thirty days or more~~)) after the ((~~petition is filed, and~~)) signatures are verified by the county auditor and after the filing deadline established in RCW

29A.04.321(3). If the filing deadline for the following general or municipal election has passed, the legislative authority of the county may call for a special election on the first election date provided for in RCW 29A.04.321(2). The referendum shall be otherwise governed by the provisions of the state Constitution and laws generally applicable to ((~~referendum measures~~)) elections consistent with Title 29A RCW. If the referendum is approved by an affirmative vote, the salary change takes effect on the date specified for the salary change filed by the commission in subsection (5) of this section.

(8) The action fixing the salary of a county commissioner or councilmember by a commission established in conformity with this section shall supersede any other provision of state statute or county ordinance related to municipal budgets or to the fixing of salaries of county commissioners and councilmembers.

(9) Salaries for county commissioners and councilmembers established under an ordinance or resolution of the county legislative authority in existence on July 22, 2001, that substantially complies with this section shall remain in effect unless and until changed in accordance with such charter provision or ordinance.

Passed by the Senate February 28, 2023.
Passed by the House March 24, 2023.
Approved by the Governor April 6, 2023.
Filed in Office of Secretary of State April 6, 2023.

CHAPTER 50

[Engrossed Senate Bill 5650]

K-12 EMPLOYEES—SALARY INFLATIONARY INCREASES

AN ACT Relating to salary inflationary increases for K-12 employees; and amending RCW 28A.400.205.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 28A.400.205 and 2018 c 266 s 206 are each amended to read as follows:

(1) School district employees shall be provided an annual salary inflationary increase in accordance with this section.

(a) The inflationary increase shall be calculated by applying the rate of the yearly increase in the inflationary adjustment index to any state-funded salary base used in state funding formulas for teachers and other school district employees. Beginning with the 2019-20 school year, each school district shall be provided an inflationary adjustment allocation sufficient to grant this inflationary increase.

(b) A school district shall distribute its inflationary adjustment allocation for salaries and salary-related benefits in accordance with the district's collective bargaining agreements and compensation policies. No later than the end of the school year, each school district shall certify to the superintendent of public instruction that it has spent funds provided for inflationary increases on salaries and salary-related benefits.

(c) Any funded inflationary increase shall be included in the salary base used to determine inflationary increases for school employees in subsequent years. For teachers and other certificated instructional staff, the rate of the annual

inflationary increase funded for certificated instructional staff shall be applied to the base salary used with the statewide salary allocation methodology established under RCW 28A.150.410 and to any other salary allocation methodologies used to recognize school district personnel costs.

(2) For the purposes of this section, "inflationary adjustment index" means((~~, for any~~)):

(a) For the 2023-24 school year, 3.7 percent; and

(b) Beginning with the 2024-25 school year, the implicit price deflator for ((~~that fiscal~~)) the previous calendar year as of the beginning of the school year, using the official current base, compiled by the bureau of economic analysis, United States department of commerce.

Passed by the Senate March 7, 2023.
Passed by the House March 24, 2023.
Approved by the Governor April 6, 2023.
Filed in Office of Secretary of State April 6, 2023.

CHAPTER 51

[Senate Bill 5700]

HEALTH CARE AUTHORITY—VARIOUS PROVISIONS

AN ACT Relating to modernization of state health care authority-related laws; amending RCW 41.05.006, 41.05.009, 41.05.011, 41.05.013, 41.05.015, 41.05.031, 41.05.035, 41.05.039, 41.05.046, 41.05.066, 41.05.068, 41.05.130, 41.05.160, 41.05.220, 41.05.310, 41.05.320, 41.05.400, 41.05.413, 41.05.520, 41.05.540, 41.05.550, 41.05.601, 41.05.650, 41.05.660, 41.05A.120, 41.05A.160, 41.05A.170, 70.320.050, 70.390.020, 71.24.380, 74.09.010, 74.09.171, 74.09.215, 74.09.220, 74.09.325, 74.09.328, 74.09.470, 74.09.4701, 74.09.480, 74.09.522, 74.09.630, 74.09.634, 74.09.645, 74.09.650, 74.09.653, 74.09.655, 74.09.657, and 74.09.860; reenacting and amending RCW 41.05.021, 71.24.035, 74.09.053, and 74.09.659; decodifying RCW 41.05.033, 41.05.110, 41.05.280, 41.05.680, and 74.09.756; and repealing RCW 41.05.090, 41.05.205, 41.05.240, and 74.09.720.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 41.05.006 and 2018 c 260 s 2 are each amended to read as follows:

(1) The legislature recognizes that (a) the state is a major purchaser of health care services, (b) the increasing costs of such health care services are posing and will continue to pose a great financial burden on the state, (c) it is the state's policy, consistent with the best interests of the state, to provide comprehensive health care as an employer, to ((~~employees and school~~)) public employees, officials, their dependents, and to those who are dependent on the state for necessary medical care, and (d) it is imperative that the state begin to develop effective and efficient health care delivery systems and strategies for procuring health care services in order for the state to continue to purchase the most comprehensive health care possible.

(2) It is therefore the purpose of this chapter to establish the Washington state health care authority whose purpose shall be to (a) develop health care benefit programs that provide access to at least one comprehensive benefit plan funded to the fullest extent possible by the employer, and a health savings account/high deductible health plan option as defined in section 1201 of the medicare prescription drug improvement and modernization act of 2003, as amended, for eligible ((~~employees and school~~)) public employees, officials, and

their dependents, and (b) study all state purchased health care, alternative health care delivery systems, and strategies for the procurement of health care services and make recommendations aimed at minimizing the financial burden which health care poses on the state, ((~~employees and school~~)) public employees, and its charges, while at the same time allowing the state to provide the most comprehensive health care options possible.

Sec. 2. RCW 41.05.009 and 2018 c 260 s 3 are each amended to read as follows:

(1) The authority, or an employing agency at the authority's direction, shall initially determine and periodically review whether ((~~an employee or a school~~)) a public employee is eligible for benefits pursuant to the criteria established under this chapter.

(2) An employing agency shall inform ((~~an employee or a school~~)) a public employee in writing whether or not he or she is eligible for benefits when initially determined and upon any subsequent change, including notice of the ((~~employee's or school~~)) public employee's right to an appeal.

Sec. 3. RCW 41.05.011 and 2019 c 411 s 4 are each amended to read as follows:

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

(1) "Authority" means the Washington state health care authority.

(2) "Board" means the public employees' benefits board established under RCW 41.05.055 and the school employees' benefits board established under RCW 41.05.740.

(3) "Dependent care assistance program" means a benefit plan whereby employees and school employees may pay for certain employment related dependent care with pretax dollars as provided in the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec. 129 or other sections of the internal revenue code.

(4) "Director" means the director of the authority.

(5) "Emergency service personnel killed in the line of duty" means law enforcement officers and firefighters as defined in RCW 41.26.030, members of the Washington state patrol retirement fund as defined in RCW 43.43.120, and reserve officers and firefighters as defined in RCW 41.24.010 who die as a result of injuries sustained in the course of employment as determined consistent with Title 51 RCW by the department of labor and industries.

(6)(a) "Employee" for the public employees' benefits board program includes all employees of the state, whether or not covered by civil service; elected and appointed officials of the executive branch of government, including full-time members of boards, commissions, or committees; justices of the supreme court and judges of the court of appeals and the superior courts; and members of the state legislature. Pursuant to contractual agreement with the authority, "employee" may also include: (i) Employees of a county, municipality, or other political subdivision of the state and members of the legislative authority of any county, city, or town who are elected to office after February 20, 1970, if the legislative authority of the county, municipality, or other political subdivision of the state submits application materials to the authority to provide any of its insurance programs by contract with the authority, as provided in

RCW 41.04.205 and 41.05.021(1)(g); (ii) employees of employee organizations representing state civil service employees, at the option of each such employee organization; (iii) through December 31, 2019, employees of a school district if the authority agrees to provide any of the school districts' insurance programs by contract with the authority as provided in RCW 28A.400.350; (iv) employees of a tribal government, if the governing body of the tribal government seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.05.021(1) (f) and (g); (v) employees of the Washington health benefit exchange if the governing board of the exchange established in RCW 43.71.020 seeks and receives approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.05.021(1) (g) and (n); and (vi) through December 31, 2019, employees of a charter school established under chapter 28A.710 RCW. "Employee" does not include: Adult family home providers; unpaid volunteers; patients of state hospitals; inmates; ((~~employees of the Washington state convention and trade center as provided in RCW 41.05.110;~~)) students of institutions of higher education as determined by their institution; and any others not expressly defined as employees under this chapter or by the authority under this chapter.

(b) Effective January 1, 2020, "school employee" for the school employees' benefits board program includes:

(i) All employees of school districts and charter schools established under chapter 28A.710 RCW;

(ii) Represented employees of educational service districts; and

(iii) Effective January 1, 2024, all employees of educational service districts.

(7) "Employee group" means employees of a similar employment type, such as administrative, represented classified, nonrepresented classified excluding such employees in educational service districts until December 31, 2023, confidential, represented certificated, or nonrepresented certificated excluding such employees in educational service districts until December 31, 2023, within a school employees' benefits board organization.

(8)(a) "Employer" for the public employees' benefits board program means the state of Washington.

(b) "Employer" for the school employees' benefits board program means school districts and educational service districts and charter schools established under chapter 28A.710 RCW.

(9) "Employer group" means those counties, municipalities, political subdivisions, the Washington health benefit exchange, tribal governments, and employee organizations representing state civil service employees((~~, and through December 31, 2019, school districts, charter schools, and through December 31, 2023, educational service districts~~)) obtaining employee benefits through a contractual agreement with the authority to participate in benefit plans developed by the public employees' benefits board.

(10)(a) "Employing agency" for the public employees' benefits board program means a division, department, or separate agency of state government, including an institution of higher education; a county, municipality, or other political subdivision; and a tribal government covered by this chapter.

(b) "Employing agency" for the school employees' benefits board program means school districts, educational service districts, and charter schools.

(11) "Faculty" means an academic employee of an institution of higher education whose workload is not defined by work hours but whose appointment, workload, and duties directly serve the institution's academic mission, as determined under the authority of its enabling statutes, its governing body, and any applicable collective bargaining agreement.

(12) "Flexible benefit plan" means a benefit plan that allows ((~~employees and school~~)) public employees to choose the level of health care coverage provided and the amount of employee or school employee contributions from among a range of choices offered by the authority.

(13) "Insuring entity" means an insurer as defined in chapter 48.01 RCW, a health care service contractor as defined in chapter 48.44 RCW, or a health maintenance organization as defined in chapter 48.46 RCW.

(14) "((~~Medical flexible~~)) Flexible spending arrangement" means a benefit plan whereby ((~~state and school~~)) public employees may reduce their salary before taxes to pay for medical expenses not reimbursed by insurance as provided in the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

(15) "Participant" means an individual who fulfills the eligibility and enrollment requirements under the salary reduction plan.

(16) "Plan year" means the time period established by the authority.

(17) "Premium payment plan" means a benefit plan whereby public employees may pay their share of group health plan premiums with pretax dollars as provided in the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

(18) "Public employee" has the same meaning as employee and school employee.

(19) "Retired or disabled school employee" means:

(a) Persons who separated from employment with a school district or educational service district and are receiving a retirement allowance under chapter 41.32 or 41.40 RCW as of September 30, 1993;

(b) Persons who separate from employment with a school district, educational service district, or charter school on or after October 1, 1993, and immediately upon separation receive a retirement allowance under chapter 41.32, 41.35, or 41.40 RCW;

(c) Persons who separate from employment with a school district, educational service district, or charter school due to a total and permanent disability, and are eligible to receive a deferred retirement allowance under chapter 41.32, 41.35, or 41.40 RCW.

(20) "Salary" means a ((~~state or school~~)) public employee's monthly salary or wages.

(21) "Salary reduction plan" means a benefit plan whereby public employees may agree to a reduction of salary on a pretax basis to participate in the dependent care assistance program, ((~~medical~~)) flexible spending arrangement, or premium payment plan offered pursuant to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

(22) "School employees' benefits board organization" means a public school district or educational service district or charter school established under chapter

28A.710 RCW that is required to participate in benefit plans provided by the school employees' benefits board.

(23) "School year" means school year as defined in RCW 28A.150.203(11).

(24) "Seasonal employee" means a state employee hired to work during a recurring, annual season with a duration of three months or more, and anticipated to return each season to perform similar work.

(25) "Separated employees" means persons who separate from employment with an employer as defined in:

(a) RCW 41.32.010(17) on or after July 1, 1996; or

(b) RCW 41.35.010 on or after September 1, 2000; or

(c) RCW 41.40.010 on or after March 1, 2002;

and who are at least age fifty-five and have at least ten years of service under the teachers' retirement system plan 3 as defined in RCW 41.32.010(33), the Washington school employees' retirement system plan 3 as defined in RCW 41.35.010, or the public employees' retirement system plan 3 as defined in RCW 41.40.010.

(26) "State purchased health care" or "health care" means medical and behavioral health care, pharmaceuticals, and medical equipment purchased with state and federal funds by the department of social and health services, the department of health, the basic health plan, the state health care authority, the department of labor and industries, the department of corrections, the department of veterans affairs, and local school districts.

(27) "Tribal government" means an Indian tribal government as defined in section 3(32) of the employee retirement income security act of 1974, as amended, or an agency or instrumentality of the tribal government, that has government offices principally located in this state.

Sec. 4. RCW 41.05.013 and 2006 c 307 s 8 are each amended to read as follows:

(1) The authority shall coordinate state agency efforts to develop and implement uniform policies across state purchased health care programs that will ensure prudent, cost-effective health services purchasing, maximize efficiencies in administration of state purchased health care programs, improve the quality of care provided through state purchased health care programs, and reduce administrative burdens on health care providers participating in state purchased health care programs. The policies adopted should be based, to the extent possible, upon the best available scientific and medical evidence and shall endeavor to address:

(a) Methods of formal assessment, such as a health technology assessment under RCW 70.14.080 through 70.14.130. Consideration of the best available scientific evidence does not preclude consideration of experimental or investigational treatment or services under a clinical investigation approved by an institutional review board;

(b) Monitoring of health outcomes, adverse events, quality, and cost-effectiveness of health services;

(c) Development of a common definition of medical necessity; and

(d) Exploration of common strategies for disease management and demand management programs, including asthma, diabetes, heart disease, and similar common chronic diseases. Strategies to be explored include individual asthma management plans. ((~~On January 1, 2007, and January 1, 2009, the authority~~

~~shall issue a status report to the legislature summarizing any results it attains in exploring and coordinating strategies for asthma, diabetes, heart disease, and other chronic diseases.~~))

(2) The ((~~administrator~~)) director may invite health care provider organizations, carriers, other health care purchasers, and consumers to participate in efforts undertaken under this section.

(3) For the purposes of this section "best available scientific and medical evidence" means the best available clinical evidence derived from systematic research.

Sec. 5. RCW 41.05.015 and 2018 c 201 s 7001 are each amended to read as follows:

The director shall designate a medical director who is licensed under chapter 18.57 or 18.71 RCW. The director shall also appoint such professional personnel and other assistants and employees, including professional medical screeners, as may be reasonably necessary to carry out the provisions of this chapter and chapters 74.09, 71.05, 71.24, and 71.34 RCW and other applicable law. The medical screeners must be supervised by one or more physicians whom the director or the director's designee shall appoint.

Sec. 6. RCW 41.05.021 and 2018 c 260 s 6 and 2018 c 201 s 7002 are each reenacted and amended to read as follows:

(1) The Washington state health care authority is created within the executive branch. The authority shall have a director appointed by the governor, with the consent of the senate. The director shall serve at the pleasure of the governor. The director may employ a deputy director, and such assistant directors and special assistants as may be needed to administer the authority, who shall be exempt from chapter 41.06 RCW, and any additional staff members as are necessary to administer this chapter. The director may delegate any power or duty vested in him or her by law, including authority to make final decisions and enter final orders in hearings conducted under chapter 34.05 RCW. The primary duties of the authority shall be to: Administer insurance benefits for employees, retired or disabled state and school employees, and school employees; administer the basic health plan pursuant to chapter 70.47 RCW; administer the children's health program pursuant to chapter 74.09 RCW; study state purchased health care programs in order to maximize cost containment in these programs while ensuring access to quality health care; implement state initiatives, joint purchasing strategies, and techniques for efficient administration that have potential application to all state-purchased health services; and administer grants that further the mission and goals of the authority. The authority's duties include, but are not limited to, the following:

(a) To administer health care benefit programs for employees, retired or disabled state and school employees, and school employees as specifically authorized in RCW 41.05.065 and 41.05.740 and in accordance with the methods described in RCW 41.05.075, 41.05.140, and other provisions of this chapter;

(b) To analyze state purchased health care programs and to explore options for cost containment and delivery alternatives for those programs that are consistent with the purposes of those programs, including, but not limited to:

(i) Creation of economic incentives for the persons for whom the state purchases health care to appropriately utilize and purchase health care services, including the development of flexible benefit plans to offset increases in individual financial responsibility;

(ii) Utilization of provider arrangements that encourage cost containment, including but not limited to prepaid delivery systems, utilization review, and prospective payment methods, and that ensure access to quality care, including assuring reasonable access to local providers, especially for employees and school employees residing in rural areas;

(iii) Coordination of state agency efforts to purchase drugs effectively as provided in RCW 70.14.050;

(iv) Development of recommendations and methods for purchasing medical equipment and supporting services on a volume discount basis;

(v) Development of data systems to obtain utilization data from state purchased health care programs in order to identify cost centers, utilization patterns, provider and hospital practice patterns, and procedure costs, utilizing the information obtained pursuant to RCW 41.05.031; and

(vi) In collaboration with other state agencies that administer state purchased health care programs, private health care purchasers, health care facilities, providers, and carriers:

(A) Use evidence-based medicine principles to develop common performance measures and implement financial incentives in contracts with insuring entities, health care facilities, and providers that:

(I) Reward improvements in health outcomes for individuals with chronic diseases, increased utilization of appropriate preventive health services, and reductions in medical errors; and

(II) Increase, through appropriate incentives to insuring entities, health care facilities, and providers, the adoption and use of information technology that contributes to improved health outcomes, better coordination of care, and decreased medical errors;

(B) Through state health purchasing, reimbursement, or pilot strategies, promote and increase the adoption of health information technology systems, including electronic medical records, by hospitals as defined in RCW 70.41.020, integrated delivery systems, and providers that:

(I) Facilitate diagnosis or treatment;

(II) Reduce unnecessary duplication of medical tests;

(III) Promote efficient electronic physician order entry;

(IV) Increase access to health information for consumers and their providers; and

(V) Improve health outcomes;

(C) Coordinate a strategy for the adoption of health information technology systems ((~~using the final health information technology report and recommendations developed under chapter 261, Laws of 2005~~));

(c) To analyze areas of public and private health care interaction;

(d) To provide information and technical and administrative assistance to the board;

(e) To review and approve or deny applications from counties, municipalities, and other political subdivisions of the state to provide state-sponsored insurance or self-insurance programs to their employees in

accordance with the provisions of RCW 41.04.205 and (g) of this subsection, setting the premium contribution for approved groups as outlined in RCW 41.05.050;

(f) To review and approve or deny the application when the governing body of a tribal government applies to transfer their employees to an insurance or self-insurance program administered by the public employees' benefits board. In the event of an employee transfer pursuant to this subsection (1)(f), members of the governing body are eligible to be included in such a transfer if the members are authorized by the tribal government to participate in the insurance program being transferred from and subject to payment by the members of all costs of insurance for the members. The authority shall: (i) Establish the conditions for participation; (ii) have the sole right to reject the application; and (iii) set the premium contribution for approved groups as outlined in RCW 41.05.050. Approval of the application by the authority transfers the employees and dependents involved to the insurance, self-insurance, or health care program administered by the public employees' benefits board;

(g) To ensure the continued status of the employee insurance or self-insurance programs administered under this chapter as a governmental plan under section 3(32) of the employee retirement income security act of 1974, as amended, the authority shall limit the participation of employees of a county, municipal, school district, educational service district, or other political subdivision, the Washington health benefit exchange, or a tribal government, including providing for the participation of those employees whose services are substantially all in the performance of essential governmental functions, but not in the performance of commercial activities. Charter schools established under chapter 28A.710 RCW are employers and are school employees' benefits board organizations unless:

(i) The authority receives guidance from the internal revenue service or the United States department of labor that participation jeopardizes the status of plans offered under this chapter as governmental plans under the federal employees' retirement income security act or the internal revenue code; or

(ii) The charter schools are not in compliance with regulations issued by the internal revenue service and the United States treasury department pertaining to section 414(d) of the federal internal revenue code;

(h) To establish billing procedures and collect funds from school employees' benefits board organizations in a way that minimizes the administrative burden on districts;

(i) Through December 31, 2019, to publish and distribute to nonparticipating school districts and educational service districts by October 1st of each year a description of health care benefit plans available through the authority and the estimated cost if school districts and educational service district employees were enrolled;

(j) To apply for, receive, and accept grants, gifts, and other payments, including property and service, from any governmental or other public or private entity or person, and make arrangements as to the use of these receipts to implement initiatives and strategies developed under this section;

(k) To issue, distribute, and administer grants that further the mission and goals of the authority;

(l) To adopt rules consistent with this chapter as described in RCW 41.05.160 including, but not limited to:

(i) Setting forth the criteria established by the public employees' benefits board under RCW 41.05.065, and by the school employees' benefits board under RCW 41.05.740, for determining whether ((~~an employee or school~~)) a public employee is eligible for benefits;

(ii) Establishing an appeal process in accordance with chapter 34.05 RCW by which ((~~an employee or school~~)) a public employee may appeal an eligibility determination;

(iii) Establishing a process to assure that the eligibility determinations of an employing agency comply with the criteria under this chapter, including the imposition of penalties as may be authorized by the board;

(m)(i) To administer the medical services programs established under chapter 74.09 RCW as the designated single state agency for purposes of Title XIX of the federal social security act;

(ii) To administer the state children's health insurance program under chapter 74.09 RCW for purposes of Title XXI of the federal social security act;

(iii) To enter into agreements with the department of social and health services for administration of medical care services programs under Titles XIX and XXI of the social security act and programs under chapters 71.05, 71.24, and 71.34 RCW. The agreements shall establish the division of responsibilities between the authority and the department with respect to mental health, ((~~chemical dependency~~)) substance use disorders, and long-term care services, including services for persons with developmental disabilities. The agreements shall be revised as necessary, to comply with the final implementation plan adopted under section 116, chapter 15, Laws of 2011 1st sp. sess.;

(iv) To adopt rules to carry out the purposes of chapter 74.09 RCW;

(v) To appoint such advisory committees or councils as may be required by any federal statute or regulation as a condition to the receipt of federal funds by the authority. The director may appoint statewide committees or councils in the following subject areas: (A) Health facilities; (B) children and youth services; (C) blind services; (D) medical and health care; (E) drug abuse and alcoholism; (F) rehabilitative services; and (G) such other subject matters as are or come within the authority's responsibilities. The statewide councils shall have representation from both major political parties and shall have substantial consumer representation. Such committees or councils shall be constituted as required by federal law or as the director in his or her discretion may determine. The members of the committees or councils shall hold office for three years except in the case of a vacancy, in which event appointment shall be only for the remainder of the unexpired term for which the vacancy occurs. No member shall serve more than two consecutive terms. Members of such state advisory committees or councils may be paid their travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended;

(n) To review and approve or deny the application from the governing board of the Washington health benefit exchange to provide public employees' benefits board state-sponsored insurance or self-insurance programs to employees of the exchange. The authority shall (i) establish the conditions for participation; (ii) have the sole right to reject an application; and (iii) set the premium contribution for approved groups as outlined in RCW 41.05.050.

(2) The public employees' benefits board and the school employees' benefits board may implement strategies to promote managed competition among employee and school employee health benefit plans. Strategies may include but are not limited to:

(a) Standardizing the benefit package;

(b) Soliciting competitive bids for the benefit package;

(c) Limiting the state's contribution to a percent of the lowest priced qualified plan within a geographical area;

(d) Monitoring the impact of the approach under this subsection with regards to: Efficiencies in health service delivery, cost shifts to subscribers, access to and choice of managed care plans statewide, and quality of health services. The health care authority shall also advise on the value of administering a benchmark employer-managed plan to promote competition among managed care plans.

Sec. 7. RCW 41.05.031 and 1990 c 222 s 4 are each amended to read as follows:

The Washington state health information technology office is located within the authority. The following state agencies are directed to cooperate with the authority to establish appropriate health care information systems in their programs: The department of social and health services, the department of health, the department of labor and industries, the basic health plan, the department of veterans affairs, the department of corrections, the department of children, youth, and families, and the superintendent of public instruction.

The authority, in conjunction with these agencies and in collaboration with the consolidated technology services agency, shall determine:

(1) Definitions of health care services;

(2) Health care data elements common to all agencies;

(3) Health care data elements unique to each agency; and

(4) A mechanism for program and budget review of health care data.

Sec. 8. RCW 41.05.035 and 2007 c 259 s 10 are each amended to read as follows:

(1) The ((~~administrator~~)) director shall design ((~~and pilot~~)), implement, and maintain a consumer-centric health information infrastructure and the ((~~first health record banks~~)) state electronic health record repositories that will facilitate the secure exchange of health information when and where needed and shall:

(a) Complete the plan of initial implementation, including but not limited to determining the technical infrastructure for ((~~health record banks~~)) the state electronic health record repositories and the account locator service, setting criteria and standards for health record ((~~banks~~)) repositories, and determining oversight of the state health ((~~record banks~~)) records service;

(b) Implement the first state health record ((~~banks in pilot sites~~)) repositories as funding allows;

(c) Involve health care consumers in meaningful ways in the design, implementation, oversight, and dissemination of information on the state health record ((~~bank~~)) repositories system; and

(d) Promote adoption of electronic medical records and health information exchange through continuation of the Washington health information

collaborative, and by working with private payors and other organizations in restructuring reimbursement to provide incentives for providers to adopt electronic medical records in their practices.

(2) The ((~~administrator~~)) director may establish an advisory board, a stakeholder committee, and subcommittees to assist in carrying out the duties under this section. The ((~~administrator~~)) director may reappoint health information infrastructure advisory board members to assure continuity and shall appoint any additional representatives that may be required for their expertise and experience.

(a) The ((~~administrator~~)) director shall appoint the chair of the advisory board, chairs, and cochairs of the stakeholder committee, if formed;

(b) Meetings of the board, stakeholder committee, and any advisory group are subject to chapter 42.30 RCW, the open public meetings act, including RCW 42.30.110(1)(l), which authorizes an executive session during a regular or special meeting to consider proprietary or confidential nonpublished information; and

(c) The members of the board, stakeholder committee, and any advisory group:

(i) Shall agree to the terms and conditions imposed by the ((~~administrator~~)) director regarding conflicts of interest as a condition of appointment;

(ii) Are immune from civil liability for any official acts performed in good faith as members of the board, stakeholder committee, or any advisory group.

(3) Members of the board may be compensated for participation in accordance with a personal services contract to be executed after appointment and before commencement of activities related to the work of the board. Members of the stakeholder committee shall not receive compensation but shall be reimbursed under RCW 43.03.050 and 43.03.060.

(4) The ((~~administrator~~)) director may work with public and private entities to develop and encourage the use of personal health records which are portable, interoperable, secure, and respectful of patients' privacy.

(5) The ((~~administrator~~)) director may enter into contracts to issue, distribute, and administer grants that are necessary or proper to carry out this section.

Sec. 9. RCW 41.05.039 and 2009 c 300 s 3 are each amended to read as follows:

(1) By August 1, 2009, the ((~~administrator~~)) director shall designate one or more lead organizations to coordinate development of processes, guidelines, and standards to:

(a) Improve patient access to and control of their own health care information and thereby enable their active participation in their own care; and

(b) Implement methods for the secure exchange of clinical data as a means to promote:

(i) Continuity of care;

(ii) Quality of care;

(iii) Patient safety; and

(iv) Efficiency in medical practices.

(2) The lead organization designated by the ((~~administrator~~)) director under this section shall:

(a) Be representative of health care privacy advocates, providers, and payors across the state;

(b) Have expertise and knowledge in the major disciplines related to the secure exchange of health data;

(c) Be able to support the costs of its work without recourse to state funding. The ((~~administrator~~)) director and the lead organization are authorized and encouraged to seek federal funds, including funds from the federal American recovery and reinvestment act, as well as solicit, receive, contract for, collect, and hold grants, donations, and gifts to support the implementation of this section and RCW 41.05.042;

(d) In collaboration with the ((~~administrator~~)) director, identify and convene work groups, as needed, to accomplish the goals of this section and RCW 41.05.042;

(e) Conduct outreach and communication efforts to maximize the adoption of the guidelines, standards, and processes developed by the lead organization;

(f) Submit regular updates to the ((~~administrator~~)) director on the progress implementing the requirements of this section and RCW 41.05.042; and

(g) With the ((~~administrator~~)) director, report to the legislature December 1, 2009, and on December 1st of each year through December 1, 2012, on progress made, the time necessary for completing tasks, and identification of future tasks that should be prioritized for the next improvement cycle.

(3) Within available funds as specified in subsection (2)(c) of this section, the ((~~administrator~~)) director shall:

(a) Participate in and review the work and progress of the lead organization, including the establishment and operation of work groups for this section and RCW 41.05.042; and

(b) Consult with the office of the attorney general to determine whether:

(i) An antitrust safe harbor is necessary to enable licensed carriers and providers to develop common rules and standards; and, if necessary, take steps, such as implementing rules or requesting legislation, to establish a safe harbor; and

(ii) Legislation is needed to limit provider liability if their health records are missing health information despite their participation in the exchange of health information.

(4) The lead organization or organizations shall take steps to minimize the costs that implementation of the processes, guidelines, and standards may have on participating entities, including providers.

Sec. 10. RCW 41.05.046 and 2009 c 300 s 5 are each amended to read as follows:

If any provision in RCW 41.05.036, 41.05.039, and 41.05.042 conflicts with existing or new federal requirements, the ((~~administrator~~)) director shall recommend modifications, as needed, to assure compliance with the aims of RCW 41.05.036, 41.05.039, and 41.05.042 and federal requirements.

Sec. 11. RCW 41.05.066 and 2018 c 260 s 13 are each amended to read as follows:

A certificate of domestic partnership qualified under the provisions of RCW 26.60.030 shall be recognized as evidence of a ((~~qualified~~)) state registered domestic partnership fulfilling all necessary eligibility criteria for the partner of

the ((~~employee or school~~)) public employee to receive benefits. Nothing in this section affects the requirements of domestic partners to complete documentation related to federal tax status that may currently be required by the board for ((~~employees or school~~)) public employees choosing to make premium payments on a pretax basis.

Sec. 12. RCW 41.05.068 and 2009 c 479 s 25 are each amended to read as follows:

The authority may participate as an employer-sponsored program established in section 1860D-22 of the medicare prescription drug, improvement, and modernization act of 2003, P.L. 108-173 et seq., to receive federal employer subsidy funds for continuing to provide retired employee health coverage, including a pharmacy benefit. The ((~~administrator~~)) director, in consultation with the office of financial management, shall evaluate participation in the employer incentive program, including but not limited to any necessary program changes to meet the eligibility requirements that employer-sponsored retiree health coverage provide prescription drug coverage at least equal to the actuarial value of standard prescription drug coverage under medicare part D. Any employer subsidy moneys received from participation in the federal employer incentive program shall be deposited in the state general fund.

Sec. 13. RCW 41.05.130 and 2017 3rd sp.s. c 13 s 810 are each amended to read as follows:

(1) The state health care authority administrative account is hereby created in the state treasury. Moneys in the account, including unanticipated revenues under RCW 43.79.270, may be spent only after appropriation by statute, and may be used only for operating expenses of the authority((~~, and during the 2013-2015 fiscal biennium, for health care related analysis provided to the legislature by the office of the state actuary. During the 2017-2019 and 2019-2021 fiscal biennia, moneys in the account may be used for the initial operating expenses of the authority associated with chapter 13, Laws of 2017 3rd sp. sess. All funds so used shall be reimbursed from the school employees' insurance administrative account following the start of benefit provision by the school employees' benefits board on January 1, 2020~~)).

(2) The school employees' insurance administrative account is hereby created in the state treasury. Moneys in the account may be used for operating, contracting, and other administrative expenses of the authority in administration of the school employees insurance program, including reimbursement of the state health care authority administrative account for initial operating expenses of the authority associated with chapter 13, Laws of 2017 3rd sp. sess.

Sec. 14. RCW 41.05.160 and 1988 c 107 s 15 are each amended to read as follows:

The ((~~administrator~~)) director may promulgate and adopt rules consistent with this chapter to carry out the purposes of this chapter. All rules shall be adopted in accordance with chapter 34.05 RCW.

Sec. 15. RCW 41.05.220 and 1998 c 245 s 38 are each amended to read as follows:

(1) State general funds appropriated to the department of health for the purposes of funding community health centers to provide primary health and

dental care services, migrant health services, and maternity health care services shall be transferred to the state health care authority. Any related administrative funds expended by the department of health for this purpose shall also be transferred to the health care authority. The health care authority shall exclusively expend these funds through contracts with community health centers to provide primary health and dental care services, migrant health services, and maternity health care services. The ((~~administrator~~)) director of the health care authority shall establish requirements necessary to assure community health centers provide quality health care services that are appropriate and effective and are delivered in a cost-efficient manner. The ((~~administrator~~)) director shall further assure that community health centers have appropriate referral arrangements for acute care and medical specialty services not provided by the community health centers.

(2) The authority, in consultation with the department of health, shall work with community and migrant health clinics and other providers of care to underserved populations, to ensure that the number of people of color and underserved people receiving access to managed care is expanded in proportion to need, based upon demographic data.

Sec. 16. RCW 41.05.310 and 2008 c 229 s 4 are each amended to read as follows:

The authority shall have responsibility for the formulation and adoption of a plan, policies, and procedures designed to guide, direct, and administer the salary reduction plan. For the plan year beginning January 1, 1996, the ((~~administrator~~)) director may establish a premium only plan. Expansion of the salary reduction plan or cafeteria plan during subsequent plan years shall be subject to approval by the director of the office of financial management.

(1) A plan document describing the benefits offered under the salary reduction plan shall be adopted and administered by the authority. The authority shall represent the state in all matters concerning the administration of the plan. The state, through the authority, may engage the services of a professional consultant or administrator on a contractual basis to serve as an agent to assist the authority or perform the administrative functions necessary in carrying out the purposes of RCW 41.05.123, 41.05.300 through 41.05.350, and 41.05.295.

(2) The authority shall formulate and establish policies and procedures for the administration of the salary reduction plan that are consistent with existing state law, the internal revenue code, and the regulations adopted by the internal revenue service as they may apply to the benefits offered to participants under the plan.

(3) Every action taken by the authority in administering RCW 41.05.123, 41.05.300 through 41.05.350, and 41.05.295 shall be presumed to be a fair and reasonable exercise of the authority vested in or the duties imposed upon it. The authority shall be presumed to have exercised reasonable care, diligence, and prudence and to have acted impartially as to all persons interested unless the contrary be proved by clear and convincing affirmative evidence.

Sec. 17. RCW 41.05.320 and 2018 c 260 s 20 are each amended to read as follows:

(1) Elected officials and permanent employees and school employees are eligible to participate in the salary reduction plan and reduce their salary by

agreement with the authority. The authority may adopt rules to: (a) Limit the participation of employing agencies and their employees in the plan; and (b) permit participation in the plan by temporary employees and school employees.

(2) Persons eligible under subsection (1) of this section may enter into salary reduction agreements with the state.

(3)(a) An eligible person may become a participant of the salary reduction plan for a full plan year with annual benefit plan selection for each new plan year made before the beginning of the plan year, as determined by the authority, or upon becoming eligible.

(b) Once an eligible person elects to participate in the salary reduction plan and determines the amount his or her gross salary shall be reduced and the benefit plan for which the funds are to be used during the plan year, the agreement shall be irrevocable and may not be amended during the plan year except as provided in (c) of this subsection. Prior to making an election to participate in the salary reduction plan, the eligible person shall be informed in writing of all the benefits and reductions that will occur as a result of such election.

(c) The authority shall provide in the salary reduction plan that a participant may enroll, terminate, or change his or her election after the plan year has begun if there is a significant change in a participant's status, as provided by 26 U.S.C. Sec. 125 and the regulations adopted under that section and defined by the authority.

(4) The authority shall establish as part of the salary reduction plan the procedures for and effect of withdrawal from the plan by reason of retirement, death, leave of absence, or termination of employment. To the extent possible under federal law, the authority shall protect participants from forfeiture of rights under the plan.

(5) Any reduction of salary under the salary reduction plan shall not reduce the reportable compensation for the purpose of computing the state retirement and pension benefits earned by the ((~~employee or school~~)) public employee pursuant to chapters 41.26, 41.32, 41.35, 41.37, 41.40, and 43.43 RCW.

Sec. 18. RCW 41.05.400 and 2000 c 80 s 7 are each amended to read as follows:

(1) The ((~~administrator~~)) director shall design and offer a plan of health care coverage as described in subsection (2) of this section, for any person eligible under subsection (3) of this section. The health care coverage shall be designed and offered only to the extent that state funds are specifically appropriated for this purpose.

(2) The plan of health care coverage shall have the following components:

(a) Services covered more limited in scope than those contained in RCW 48.41.110(3);

(b) Enrollee cost-sharing that may include but not be limited to point-of-service cost-sharing for covered services;

(c) Deductibles of three thousand dollars on a per person per calendar year basis, and four thousand dollars on a per family per calendar year basis. The deductible shall be applied to the first three thousand dollars, or four thousand dollars, of eligible expenses incurred by the covered person or family, respectively, except that the deductible shall not be applied to clinical preventive services as recommended by the United States public health service. Enrollee

out-of-pocket expenses required to be paid under the plan for cost-sharing and deductibles shall not exceed five thousand dollars per person, or six thousand dollars per family;

(d) Payment methodologies for network providers may include but are not limited to resource-based relative value fee schedules, capitation payments, diagnostic related group fee schedules, and other similar strategies including risk-sharing arrangements; and

(e) Other appropriate care management and cost-containment measures determined appropriate by the ((~~administrator~~)) director, including but not limited to care coordination, provider network limitations, preadmission certification, and utilization review.

(3) Any person is eligible for coverage in the plan who resides in a county of the state where no carrier, as defined in RCW 48.43.005, or insurer regulated under chapter 48.15 RCW offers to the public an individual health benefit plan as defined in RCW 48.43.005 other than a catastrophic health plan as defined in RCW 48.43.005 at the time of application to the ((~~administrator~~)) director. Such eligibility may terminate pursuant to subsection (8) of this section.

(4) The ((~~administrator~~)) director may not reject an individual for coverage based upon preexisting conditions of the individual or deny, exclude, or otherwise limit coverage for an individual's preexisting health conditions; except that it shall impose a nine-month benefit waiting period for preexisting conditions for which medical advice was given, or for which a health care provider recommended or provided treatment, or for which a prudent layperson would have sought advice or treatment, within six months before the effective date of coverage. The preexisting condition waiting period shall not apply to prenatal care services. Credit against the waiting period shall be provided pursuant to subsections (5) and (6) of this section.

(5) Except for persons to whom subsection (6) of this section applies, the ((~~administrator~~)) director shall credit any preexisting condition waiting period in the plan for a person who was enrolled at any time during the sixty-three day period immediately preceding the date of application for the plan in a group health benefit plan or an individual health benefit plan other than a catastrophic health plan. The ((~~administrator~~)) director must credit the period of coverage the person was continuously covered under the immediately preceding health plan toward the waiting period of the new health plan. For the purposes of this subsection, a preceding health plan includes an employer-provided self-funded health plan.

(6) The ((~~administrator~~)) director shall waive any preexisting condition waiting period in the plan for a person who is an eligible individual as defined in section 2741(b) of the federal health insurance portability and accountability act of 1996 (42 U.S.C. 300gg-41(b)).

(7) The ((~~administrator~~)) director shall set the rates to be charged plan enrollees.

(8) When a carrier, as defined in RCW 48.43.005, or an insurer regulated under chapter 48.15 RCW, begins to offer an individual health benefit plan as defined in RCW 48.43.005 in a county where no carrier or insurer had been offering an individual health benefit plan:

(a) If the health benefit plan offered is other than a catastrophic health plan as defined in RCW 48.43.005, any person enrolled in the plan under subsection (3) of this section in that county shall no longer be eligible;

(b) The ((~~administrator~~)) director shall provide written notice to any person who is no longer eligible for coverage under the plan within thirty days of the ((~~administrator's~~)) director's determination that the person is no longer eligible. The notice shall: (i) Indicate that coverage under the plan will cease ninety days from the date that the notice is dated; (ii) describe any other coverage options available to the person; and (iii) describe the enrollment process for the available options.

Sec. 19. RCW 41.05.413 and 2019 c 364 s 4 are each amended to read as follows:

The director may, in his or her sole discretion, waive the requirements of RCW 41.05.410(2)(g)(((~~(i)~~))) if he or she finds that:

(1) A health carrier offering a qualified health plan under RCW 41.05.410 is unable to form a provider network that meets the network access standards adopted by the insurance commissioner due to the requirements of RCW 41.05.410(2)(g)(((~~(i)~~))); and

(2) The health carrier is able to achieve actuarially sound premiums that are ten percent lower than the previous plan year through other means.

Sec. 20. RCW 41.05.520 and 2003 1st sp.s. c 29 s 7 are each amended to read as follows:

(1) The ((~~administrator~~)) director shall establish and advertise a pharmacy connection program through which health care providers and members of the public can obtain information about manufacturer-sponsored prescription drug assistance programs. The ((~~administrator~~)) director shall ensure that the program has staff available who can assist persons in procuring free or discounted medications from manufacturer-sponsored prescription drug assistance programs by:

(a) Determining whether an assistance program is offered for the needed drug or drugs;

(b) Evaluating the likelihood of a person obtaining drugs from an assistance program under the guidelines formulated;

(c) Assisting persons with the application and enrollment in an assistance program;

(d) Coordinating and assisting physicians and others authorized to prescribe medications with communications, including applications, made on behalf of a person to a participating manufacturer to obtain approval of the person in an assistance program; and

(e) Working with participating manufacturers to simplify the system whereby eligible persons access drug assistance programs, including development of a single application form and uniform enrollment process.

(2) Notice regarding the pharmacy connection program shall initially target senior citizens, but the program shall be available to anyone, and shall include a toll-free telephone number, available during regular business hours, that may be used to obtain information.

(3) The ((~~administrator~~)) director may apply for and accept grants or gifts and may enter into interagency agreements or contracts with other state agencies

or private organizations to assist with the implementation of this program including, but not limited to, contracts, gifts, or grants from pharmaceutical manufacturers to assist with the direct costs of the program.

(4) The ((~~administrator~~)) director shall notify pharmaceutical companies doing business in Washington of the pharmacy connection program. Any pharmaceutical company that does business in this state and that offers a pharmaceutical assistance program shall notify the ((~~administrator~~)) director of the existence of the program, the drugs covered by the program, and all information necessary to apply for assistance under the program.

(5) For purposes of this section, "manufacturer-sponsored prescription drug assistance program" means a program offered by a pharmaceutical company through which the company provides a drug or drugs to eligible persons at no charge or at a reduced cost. The term does not include the provision of a drug as part of a clinical trial.

Sec. 21. RCW 41.05.540 and 2007 c 259 s 40 are each amended to read as follows:

(1) The health care authority, in coordination with the department of health, health plans participating in public employees' benefits board programs, and the University of Washington's center for health promotion, shall establish and maintain a state employee health program focused on reducing the health risks and improving the health status of state employees, dependents, and retirees enrolled in the public employees' benefits board. The program shall use public and private sector best practices to achieve goals of measurable health outcomes, measurable productivity improvements, positive impact on the cost of medical care, and positive return on investment. The program shall establish standards for health promotion and disease prevention activities, and develop a mechanism to update standards as evidence-based research brings new information and best practices forward.

(2) The state employee health program shall:

(a) Provide technical assistance and other services as needed to wellness staff in all state agencies and institutions of higher education;

(b) Develop effective communication tools and ongoing training for wellness staff;

(c) Contract with outside vendors for evaluation of program goals;

(d) Strongly encourage the widespread completion of online health assessment tools for all state employees, dependents, and retirees. The health assessment tool must be voluntary and confidential. Health assessment data and claims data shall be used to:

(i) Engage state agencies and institutions of higher education in providing evidence-based programs targeted at reducing identified health risks;

(ii) Guide contracting with third-party vendors to implement behavior change tools for targeted high-risk populations; and

(iii) Guide the benefit structure for state employees, dependents, and retirees to include covered services and medications known to manage and reduce health risks.

(((~~(3) The health care authority shall report to the legislature in December 2008 and December 2010 on outcome goals for the employee health program.~~)))

Sec. 22. RCW 41.05.550 and 2015 c 161 s 1 are each amended to read as follows:

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

(a) "Federal poverty level" means the official poverty level based on family size established and adjusted under section 673(2) of the omnibus budget reconciliation act of 1981 (P.L. 97-35; 42 U.S.C. Sec. 9902(2), as amended).

(b) "Foundation" means the prescription drug assistance foundation established in this section, a nonprofit corporation organized under the laws of this state to provide assistance in accessing prescription drugs to qualified uninsured individuals.

(c) "Health insurance coverage including prescription drugs" means prescription drug coverage under a private insurance plan, including a plan offered through the health benefit exchange under chapter 43.71 RCW, the medicaid program, the state children's health insurance program ("SCHIP"), the medicare program, the basic health plan, or any employer-sponsored health plan that includes a prescription drug benefit.

(d) "Qualified uninsured individual" means an uninsured person or an underinsured person who is a resident of this state and whose income meets financial criteria established by the foundation.

(e) "Underinsured" means an individual who has health insurance coverage including prescription drugs, but for whom the prescription drug coverage is inadequate for their needs.

(f) "Uninsured" means an individual who lacks health insurance coverage including prescription drugs.

(2)(a) The ((~~administrator~~)) director shall establish the foundation as a nonprofit corporation, organized under the laws of this state. The foundation shall assist qualified uninsured individuals in obtaining prescription drugs at little or no cost.

(b) The foundation shall be administered in a manner that:

(i) Begins providing assistance to qualified uninsured individuals by January 1, 2006;

(ii) Defines the population that may receive assistance in accordance with this section; and

(iii) Complies with the eligibility requirements necessary to obtain and maintain tax-exempt status under federal law.

(c) The board of directors of the foundation consists of up to eleven with a minimum of five members appointed by the governor to staggered terms of three years. The governor shall select as members of the board individuals who (i) will represent the interests of persons who lack prescription drug coverage; and (ii) have demonstrated expertise in business management and in the administration of a not-for-profit organization.

(d) The foundation shall apply for and comply with all federal requirements necessary to obtain and maintain tax-exempt status with respect to the federal tax obligations of the foundation's donors.

(e) The foundation is authorized, subject to the direction and ratification of the board, to receive, solicit, contract for, collect, and hold in trust for the purposes of this section, donations, gifts, grants, and bequests in the form of money paid or promised, services, materials, equipment, or other things tangible

or intangible that may be useful for helping the foundation to achieve its purpose. The foundation may use all sources of public and private financing to support foundation activities. No general fund-state funds shall be used for the ongoing operation of the foundation.

(f) No liability on the part of, and no cause of action of any nature, shall arise against any member of the board of directors of the foundation or against an employee or agent of the foundation for any lawful action taken by them in the performance of their administrative powers and duties under this section.

Sec. 23. RCW 41.05.601 and 2005 c 6 s 12 are each amended to read as follows:

The ((~~administrator~~)) director may adopt rules to implement RCW 41.05.600.

Sec. 24. RCW 41.05.650 and 2009 c 299 s 1 are each amended to read as follows:

(1) The community health care collaborative grant program is established to further the efforts of community-based coalitions to increase access to appropriate, affordable health care for Washington residents, particularly employed low-income persons and children in school who are uninsured and underinsured, through local programs addressing one or more of the following: (a) Access to medical treatment; (b) the efficient use of health care resources; and (c) quality of care.

(2) Consistent with funds appropriated for community health care collaborative grants specifically for this purpose, two-year grants may be awarded pursuant to RCW 41.05.660 by the ((~~administrator~~)) director of the health care authority.

(3) The health care authority shall provide administrative support for the program. Administrative support activities may include health care authority facilitation of statewide discussions regarding best practices and standardized performance measures among grantees, or subcontracting for such discussions.

(4) Eligibility for community health care collaborative grants shall be limited to nonprofit organizations established to serve a defined geographic region or organizations with public agency status under the jurisdiction of a local, county, or tribal government. To be eligible, such entities must have a formal collaborative governance structure and decision-making process that includes representation by the following health care providers: Hospitals, public health, behavioral health, community health centers, rural health clinics, and private practitioners that serve low-income persons in the region, unless there are no such providers within the region, or providers decline or refuse to participate or place unreasonable conditions on their participation. The nature and format of the application, and the application procedure, shall be determined by the ((~~administrator~~)) director of the health care authority. At a minimum, each application shall: (a) Identify the geographic region served by the organization; (b) show how the structure and operation of the organization reflects the interests of, and is accountable to, this region and members providing care within this region; (c) indicate the size of the grant being requested, and how the money will be spent; and (d) include sufficient information for an evaluation of the application based on the criteria established in RCW 41.05.660.

Sec. 25. RCW 41.05.660 and 2009 c 299 s 2 are each amended to read as follows:

(1) The community health care collaborative grants shall be awarded on a competitive basis based on a determination of which applicant organization will best serve the purposes of the grant program established in RCW 41.05.650. In making this determination, priority for funding shall be given to the applicants that demonstrate:

(a) The initiatives to be supported by the community health care collaborative grant are likely to address, in a measurable fashion, documented health care access and quality improvement goals aligned with state health policy priorities and needs within the region to be served;

(b) The applicant organization must document formal, active collaboration among key community partners that includes local governments, school districts, large and small businesses, nonprofit organizations, tribal governments, carriers, private health care providers, public health agencies, and community public health and safety networks((~~, as defined in RCW 70.190.010~~));

(c) The applicant organization will match the community health care collaborative grant with funds from other sources. The health care authority may award grants solely to organizations providing at least two dollars in matching funds for each community health care collaborative grant dollar awarded;

(d) The community health care collaborative grant will enhance the long-term capacity of the applicant organization and its members to serve the region's documented health care access needs, including the sustainability of the programs to be supported by the community health care collaborative grant;

(e) The initiatives to be supported by the community health care collaborative grant reflect creative, innovative approaches which complement and enhance existing efforts to address the needs of the uninsured and underinsured and, if successful, could be replicated in other areas of the state; and

(f) The programs to be supported by the community health care collaborative grant make efficient and cost-effective use of available funds through administrative simplification and improvements in the structure and operation of the health care delivery system.

(2) The ((~~administrator~~)) director of the health care authority shall endeavor to disburse community health care collaborative grant funds throughout the state, supporting collaborative initiatives of differing sizes and scales, serving at-risk populations.

(3) Grants shall be disbursed over a two-year cycle, provided the grant recipient consistently provides timely reports that demonstrate the program is satisfactorily meeting the purposes of the grant and the objectives identified in the organization's application. The requirements for the performance reports shall be determined by the health care authority ((~~administrator~~)) director. The performance measures shall be aligned with the community health care collaborative grant program goals and, where possible, shall be consistent with statewide policy trends and outcome measures required by other public and private grant funders.

Sec. 26. RCW 41.05A.120 and 2011 1st sp.s. c 15 s 99 are each amended to read as follows:

(1) After service of a notice of debt for an overpayment as provided for in RCW 41.05A.110 or 41.05A.170, stating the debt accrued, the director may issue to any person, firm, corporation, association, political subdivision, or department of the state an order to withhold and deliver property of any kind including, but not restricted to, earnings which are due, owing, or belonging to the debtor, when the director has reason to believe that there is in the possession of such person, firm, corporation, association, political subdivision, or department of the state property which is due, owing, or belonging to the debtor. The order to withhold and deliver must state the amount of the debt, and must state in summary the terms of this section, RCW 6.27.150 and 6.27.160, chapters 6.13 and 6.15 RCW, 15 U.S.C. Sec. 1673, and other state or federal exemption laws applicable generally to debtors. The order to withhold and deliver must be served in the manner prescribed for the service of a summons in a civil action or by certified mail, with return receipt ((~~requested~~)) service. Any person, firm, corporation, association, political subdivision, or department of the state upon whom service has been made shall answer the order to withhold and deliver within twenty days, exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of therein. The director may require further and additional answers to be completed by the person, firm, corporation, association, political subdivision, or department of the state. If any such person, firm, corporation, association, political subdivision, or department of the state possesses any property which may be subject to the claim of the authority, such property must be withheld immediately upon receipt of the order to withhold and deliver and must, after the twenty-day period, upon demand, be delivered forthwith to the director. The director shall hold the property in trust for application on the indebtedness involved or for return, without interest, in accordance with final determination of liability or nonliability. In the alternative, there may be furnished to the director a good and sufficient bond, satisfactory to the director, conditioned upon final determination of liability. Where money is due and owing under any contract of employment, express or implied, or is held by any person, firm, corporation, association, political subdivision, or department of the state subject to withdrawal by the debtor, such money must be delivered by remittance payable to the order of the director. Delivery to the director, subject to the exemptions under RCW 6.27.150 and 6.27.160, chapters 6.13 and 6.15 RCW, 15 U.S.C. Sec. 1673, and other state or federal law applicable generally to debtors, of the money or other property held or claimed satisfies the requirement of the order to withhold and deliver. Delivery to the director serves as full acquittance, and the state warrants and represents that it shall defend and hold harmless for such actions persons delivering money or property to the director pursuant to this chapter. The state also warrants and represents that it shall defend and hold harmless for such actions persons withholding money or property pursuant to this chapter.

(2) The director shall also, on or before the date of service of the order to withhold and deliver, mail or cause to be mailed by certified mail a copy of the order to withhold and deliver to the debtor at the debtor's last known post office address or, in the alternative, a copy of the order to withhold and deliver must be served on the debtor in the same manner as a summons in a civil action on or before the date of service of the order or within two days thereafter. The copy of the order must be mailed or served together with a concise explanation of the

right to petition for a hearing on any issue related to the collection. This requirement is not jurisdictional, but, if the copy is not mailed or served as provided in this section, or if any irregularity appears with respect to the mailing or service, the superior court, on its discretion on motion of the debtor promptly made and supported by affidavit showing that the debtor has suffered substantial injury due to the failure to mail the copy, may set aside the order to withhold and deliver and award to the debtor an amount equal to the damages resulting from the director's failure to serve on or mail to the debtor the copy.

Sec. 27. RCW 41.05A.160 and 2011 1st sp.s. c 15 s 103 are each amended to read as follows:

When the authority provides assistance to persons who possess excess real property under RCW 74.04.005((~~(11)~~)) (13)(g), the authority may file a lien against or otherwise perfect its interest in such real property as a condition of granting such assistance, and the authority has the status of a secured creditor.

Sec. 28. RCW 41.05A.170 and 2011 1st sp.s. c 15 s 104 are each amended to read as follows:

(1) When the authority determines that a vendor was overpaid by the authority for either goods or services, or both, provided to authority clients, except nursing homes under chapter 74.46 RCW, the authority shall give written notice to the vendor. The notice must include the amount of the overpayment, the basis for the claim, and the rights of the vendor under this section.

(2) The notice may be served upon the vendor in the manner prescribed for the service of a summons in civil action or be mailed to the vendor at the last known address by certified mail, return receipt requested, demanding payment within twenty days of the date of receipt.

(3) The vendor has the right to an adjudicative proceeding governed by the administrative procedure act, chapter 34.05 RCW, and the rules of the authority. The vendor's application for an adjudicative proceeding must be in writing, state the basis for contesting the overpayment notice, and include a copy of the authority's notice. The application must be served on and received by the authority within twenty-eight days of the vendor's receipt of the notice of overpayment. The vendor must serve the authority in a manner providing proof of receipt.

(4) Where an adjudicative proceeding has been requested, the presiding or reviewing ((~~office [officer]~~)) officer shall determine the amount, if any, of the overpayment received by the vendor.

(5) If the vendor fails to attend or participate in the adjudicative proceeding, upon a showing of valid service, the presiding or reviewing officer may enter an administrative order declaring the amount claimed in the notice to be assessed against the vendor and subject to collection action by the authority.

(6) Failure to make an application for an adjudicative proceeding within twenty-eight days of the date of notice results in the establishment of a final debt against the vendor in the amount asserted by the authority and that amount is subject to collection action. The authority may also charge the vendor with any costs associated with the collection of any final overpayment or debt established against the vendor.

(7) The authority may enforce a final overpayment or debt through lien and foreclosure, distraint, seizure and sale, order to withhold and deliver, or other collection action available to the authority to satisfy the debt due.

(8) Debts determined under this chapter are subject to collection action without further necessity of action by a presiding or reviewing officer. The authority may collect the debt in accordance with RCW 41.05A.120, 41.05A.130, and 41.05A.180. In addition, a vendor lien may be subject to distraint and seizure and sale in the same manner as prescribed for support liens in RCW 74.20A.130.

(9) Chapter 66, Laws of 1998 applies to overpayments for goods or services provided on or after July 1, 1998.

(10) The authority may adopt rules consistent with this section.

Sec. 29. RCW 70.320.050 and 2015 c 209 s 3 are each amended to read as follows:

(1) By December 1, 2014, the department and the authority shall report jointly to the legislature on the expected outcomes and the performance measures. The report must identify the performance measures and the expected outcomes established for each program, the relationship between the performance measures and expected improvements in client outcomes, mechanisms for reporting outcomes and measuring performance, and options for applying the performance measures and expected outcomes development process to other health and social service programs.

(2) By December 1, 2016, and annually thereafter, the department and the authority shall report to the legislature on the incorporation of the performance measures into contracts with service coordination organizations and progress toward achieving the identified outcomes. The report shall include:

(a) The number of medicaid clients enrolled over the previous year;

(b) The number of enrollees who received a baseline health assessment over the previous year;

(c) An analysis of trends in health improvement for medicaid enrollees in accordance with the measure set established under RCW ((~~41.05.065~~)) 41.05.690; and

(d) Recommendations for improving the health of medicaid enrollees.

Sec. 30. RCW 70.390.020 and 2020 c 340 s 2 are each amended to read as follows:

The authority shall establish a board to be known as the health care cost transparency board. The board is responsible for the analysis of total health care expenditures in Washington, identifying trends in health care cost growth, and establishing a health care cost growth benchmark. The board shall provide analysis of the factors impacting these trends in health care cost growth and, after review and consultation with identified entities, shall identify those health care providers and payers that are exceeding the health care cost growth benchmark. The authority may create rules needed to implement this chapter.

Sec. 31. RCW 71.24.035 and 2021 c 263 s 16 and 2021 c 263 s 8 are each reenacted and amended to read as follows:

(1) The authority is designated as the state behavioral health authority which includes recognition as the single state authority for substance use disorders, state opioid treatment authority, and state mental health authority.

(2) The director shall provide for public, client, tribal, and licensed or certified behavioral health agency participation in developing the state behavioral health program, developing related contracts, and any waiver request to the federal government under medicaid.

(3) The director shall provide for participation in developing the state behavioral health program for children and other underserved populations, by including representatives on any committee established to provide oversight to the state behavioral health program.

(4) The authority shall be designated as the behavioral health administrative services organization for a regional service area if a behavioral health administrative services organization fails to meet the authority's contracting requirements or refuses to exercise the responsibilities under its contract or state law, until such time as a new behavioral health administrative services organization is designated.

(5) The director shall:

(a) Assure that any behavioral health administrative services organization, managed care organization, or community behavioral health program provides medically necessary services to medicaid recipients consistent with the state's medicaid state plan or federal waiver authorities, and nonmedicaid services consistent with priorities established by the authority;

(b) Develop contracts in a manner to ensure an adequate network of inpatient services, evaluation and treatment services, and facilities under chapter 71.05 RCW to ensure access to treatment, resource management services, and community support services;

(c) Make contracts necessary or incidental to the performance of its duties and the execution of its powers, including managed care contracts for behavioral health services, contracts entered into under RCW 74.09.522, and contracts with public and private agencies, organizations, and individuals to pay them for behavioral health services;

(d) Define administrative costs and ensure that the behavioral health administrative services organization does not exceed an administrative cost of ten percent of available funds;

(e) Establish, to the extent possible, a standardized auditing procedure which is designed to assure compliance with contractual agreements authorized by this chapter and minimizes paperwork requirements. The audit procedure shall focus on the outcomes of service as provided in RCW 71.24.435, 70.320.020, and 71.36.025;

(f) Develop and maintain an information system to be used by the state and behavioral health administrative services organizations and managed care organizations that includes a tracking method which allows the authority to identify behavioral health clients' participation in any behavioral health service or public program on an immediate basis. The information system shall not include individual patient's case history files. Confidentiality of client information and records shall be maintained as provided in this chapter and chapter 70.02 RCW;

(g) Monitor and audit behavioral health administrative services organizations as needed to assure compliance with contractual agreements authorized by this chapter;

(h) Monitor and audit access to behavioral health services for individuals eligible for medicaid who are not enrolled in a managed care organization;

(i) Adopt such rules as are necessary to implement the authority's responsibilities under this chapter;

(j) Administer or supervise the administration of the provisions relating to persons with substance use disorders and intoxicated persons of any state plan submitted for federal funding pursuant to federal health, welfare, or treatment legislation;

(k) Require the behavioral health administrative services organizations and the managed care organizations to develop agreements with tribal, city, and county jails and the department of corrections to accept referrals for enrollment on behalf of a confined person, prior to the person's release;

(l) Require behavioral health administrative services organizations and managed care organizations, as applicable, to provide services as identified in RCW 71.05.585 and 10.77.175 to individuals committed for involuntary treatment under less restrictive alternative court orders when:

(i) The individual is enrolled in the medicaid program; or

(ii) The individual is not enrolled in medicaid and does not have other insurance which can pay for the services; and

(m) Coordinate with the centers for medicare and medicaid services to provide that behavioral health aide services are eligible for federal funding of up to one hundred percent.

(6) The director shall use available resources only for behavioral health administrative services organizations and managed care organizations, except:

(a) To the extent authorized, and in accordance with any priorities or conditions specified, in the biennial appropriations act; or

(b) To incentivize improved performance with respect to the client outcomes established in RCW 71.24.435, 70.320.020, and 71.36.025, integration of behavioral health and medical services at the clinical level, and improved care coordination for individuals with complex care needs.

(7) Each behavioral health administrative services organization, managed care organization, and licensed or certified behavioral health agency shall file with the secretary of the department of health or the director, on request, such data, statistics, schedules, and information as the secretary of the department of health or the director reasonably requires. A behavioral health administrative services organization, managed care organization, or licensed or certified behavioral health agency which, without good cause, fails to furnish any data, statistics, schedules, or information as requested, or files fraudulent reports thereof, may be subject to the contractual remedies in RCW 74.09.871 or may have its service provider certification or license revoked or suspended.

(8) The superior court may restrain any behavioral health administrative services organization, managed care organization, or service provider from operating without a contract, 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.

(9) Upon petition by the secretary of the department of health or the director, 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 of the department of health or the director authorizing him or her to enter at reasonable times, and examine the records, books, and accounts of any behavioral health administrative services organization, managed care organization, or service provider refusing to consent to inspection or examination by the authority.

(10) Notwithstanding the existence or pursuit of any other remedy, the secretary of the department of health or the director 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 behavioral health administrative services organization, managed care organization, or service provider without a contract, certification, or a license under this chapter.

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

(12) The authority, in cooperation with the state congressional delegation, shall actively seek waivers of federal requirements and such modifications of federal regulations as are necessary to allow federal medicaid reimbursement for services provided by freestanding evaluation and treatment facilities licensed under chapter 71.12 RCW or certified under chapter 71.05 RCW. The authority shall periodically share the results of its efforts with the appropriate committees of the senate and the house of representatives.

(13) The authority may:

(a) Plan, establish, and maintain substance use disorder prevention and substance use disorder treatment programs as necessary or desirable;

(b) Coordinate its activities and cooperate with behavioral programs in this and other states, and make contracts and other joint or cooperative arrangements with state, tribal, local, or private agencies in this and other states for behavioral health services and for the common advancement of substance use disorder programs;

(c) Solicit and accept for use any gift of money or property made by will or otherwise, and any grant of money, services, or property from the federal government, the state, or any political subdivision thereof or any private source, and do all things necessary to cooperate with the federal government or any of its agencies in making an application for any grant;

(d) Keep records and engage in research and the gathering of relevant statistics; and

(e) Acquire, hold, or dispose of real property or any interest therein, and construct, lease, or otherwise provide substance use disorder treatment programs.

Sec. 32. RCW 71.24.380 and 2021 c 202 s 16 are each amended to read as follows:

(1) The director shall purchase behavioral health services primarily through managed care contracting, but may continue to purchase behavioral health services directly from providers serving medicaid clients who are not enrolled in a managed care organization.

(2) The director shall require that contracted managed care organizations have a sufficient network of providers to provide adequate access to behavioral health services for residents of the regional service area that meet eligibility

criteria for services, and for maintenance of quality assurance processes. Contracts with managed care organizations must comply with all federal medicaid and state law requirements related to managed health care contracting, including RCW 74.09.522.

(3) A managed care organization must contract with the authority's selected behavioral health administrative services organization for the assigned regional service area for the administration of crisis services. The contract shall require the managed care organization to reimburse the behavioral health administrative services organization for behavioral health crisis services delivered to individuals enrolled in the managed care organization.

(4) ((~~A managed care organization~~)) The authority must contract with the ((~~contracting advocacy organization selected by the state office of behavioral health consumer advocacy established in RCW 71.40.030~~)) department of commerce for the provision of behavioral health consumer advocacy services delivered to individuals enrolled in ((~~the~~)) a managed care organization by the advocacy organization selected by the state office of behavioral health consumer advocacy established in RCW 71.40.030. The contract shall require the ((~~managed care organization~~)) authority to reimburse the ((~~office of behavioral health consumer advocacy~~)) department of commerce for the behavioral health consumer advocacy services delivered to individuals enrolled in ((~~the~~)) a managed care organization.

(5) A managed care organization must collaborate with the authority and its contracted behavioral health administrative services organization to develop and implement strategies to coordinate care with tribes and community behavioral health providers for individuals with a history of frequent crisis system utilization.

(6) A managed care organization must work closely with designated crisis responders, behavioral health administrative services organizations, and behavioral health providers to maximize appropriate placement of persons into community services, ensuring the client receives the least restrictive level of care appropriate for their condition. Additionally, the managed care organization shall work with the authority to expedite the enrollment or reenrollment of eligible persons leaving state or local correctional facilities and institutions for mental diseases.

(7) As an incentive to county authorities to become early adopters of fully integrated purchasing of medical and behavioral health services, the standards adopted by the authority shall provide for an incentive payment to counties which elect to move to full integration by January 1, 2016. Subject to federal approval, the incentive payment shall be targeted at ten percent of savings realized by the state within the regional service area in which the fully integrated purchasing takes place. Savings shall be calculated in alignment with the outcome and performance measures established in RCW 71.24.435, 70.320.020, and 71.36.025, and incentive payments for early adopter counties shall be made available for up to a six-year period, or until full integration of medical and behavioral health services is accomplished statewide, whichever comes sooner, according to rules to be developed by the authority.

Sec. 33. RCW 74.09.010 and 2020 c 80 s 55 are each amended to read as follows:

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

(1) "Authority" means the Washington state health care authority.

(2) "Bidirectional integration" means integrating behavioral health services into primary care settings and integrating primary care services into behavioral health settings.

(3) "Children's health program" means the health care services program provided to children under eighteen years of age and in households with incomes at or below the federal poverty level as annually defined by the federal department of health and human services as adjusted for family size, and who are not otherwise eligible for medical assistance or the limited casualty program for the medically needy.

(4) "Chronic care management" means the health care management within a health home of persons identified with, or at high risk for, one or more chronic conditions. Effective chronic care management:

(a) Actively assists patients to acquire self-care skills to improve functioning and health outcomes, and slow the progression of disease or disability;

(b) Employs evidence-based clinical practices;

(c) Coordinates care across health care settings and providers, including tracking referrals;

(d) Provides ready access to behavioral health services that are, to the extent possible, integrated with primary care; and

(e) Uses appropriate community resources to support individual patients and families in managing chronic conditions.

(5) "Chronic condition" means a prolonged condition and includes, but is not limited to:

(a) A mental health condition;

(b) A substance use disorder;

(c) Asthma;

(d) Diabetes;

(e) Heart disease; and

(f) Being overweight, as evidenced by a body mass index over twenty-five.

(6) "County" means the board of county commissioners, county council, county executive, or tribal jurisdiction, or its designee.

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

(8) "Department of health" means the Washington state department of health created pursuant to RCW 43.70.020.

(9) "Director" means the director of the Washington state health care authority.

(10) "Full benefit dual eligible beneficiary" means an individual who, for any month: Has coverage for the month under a medicare prescription drug plan or medicare advantage plan with part D coverage; and is determined eligible by the state for full medicaid benefits for the month under any eligibility category in the state's medicaid plan or a section 1115 demonstration waiver that provides pharmacy benefits.

(11) "Health home" or "primary care health home" means coordinated health care provided by a licensed primary care provider coordinating all medical care services, and a multidisciplinary health care team comprised of

clinical and nonclinical staff. The term "coordinating all medical care services" shall not be construed to require prior authorization by a primary care provider in order for a patient to receive treatment for covered services by an optometrist licensed under chapter 18.53 RCW. Primary care health home services shall include those services defined as health home services in 42 U.S.C. Sec. 1396w-4 and, in addition, may include, but are not limited to:

(a) Comprehensive care management including, but not limited to, chronic care treatment and management;

(b) Extended hours of service;

(c) Multiple ways for patients to communicate with the team, including electronically and by phone;

(d) Education of patients on self-care, prevention, and health promotion, including the use of patient decision aids;

(e) Coordinating and assuring smooth transitions and follow-up from inpatient to other settings;

(f) Individual and family support including authorized representatives;

(g) The use of information technology to link services, track tests, generate patient registries, and provide clinical data; and

(h) Ongoing performance reporting and quality improvement.

(12) ((~~"Internal management" means the administration of medical assistance, medical care services, the children's health program, and the limited casualty program.~~

~~(13)~~)) "Limited casualty program" means the medical care program provided to medically needy persons as defined under Title XIX of the federal social security act, and to medically indigent persons who are without income or resources sufficient to secure necessary medical services.

(((~~(14)~~))) (13) "Managed care organization" means any health care organization, including health care providers, insurers, health care service contractors, health maintenance organizations, health insuring organizations, or any other entity or combination thereof, that provides directly or by contract health care services covered under this chapter and rendered by licensed providers, on a prepaid capitated basis and that meets the requirements of section 1903(m)(1)(A) of Title XIX of the federal social security act or federal demonstration waivers granted under section 1115(a) of Title XI of the federal social security act.

(14) "Medical assistance" means the federal aid medical care program provided to categorically needy persons as defined under Title XIX of the federal social security act.

(15) "Medical care services" means the limited scope of care financed by state funds and provided to persons who are not eligible for medicaid under RCW 74.09.510 and who are eligible for the aged, blind, or disabled assistance program authorized in RCW 74.62.030 or the essential needs and housing support program pursuant to RCW 74.04.805.

(16) "Multidisciplinary health care team" means an interdisciplinary team of health professionals which may include, but is not limited to, medical specialists, nurses, pharmacists, nutritionists, dieticians, social workers, behavioral and mental health providers including substance use disorder prevention and treatment providers, doctors of chiropractic, physical therapists, licensed

complementary and alternative medicine practitioners, home care and other long-term care providers, and physicians' assistants.

(17) "Nursing home" means nursing home as defined in RCW 18.51.010.

(18) "Poverty" means the federal poverty level determined annually by the United States department of health and human services, or successor agency.

(19) "Primary care behavioral health" means a health care integration model in which behavioral health care is colocated, collaborative, and integrated within a primary care setting.

(20) "Primary care provider" means a general practice physician, family practitioner, internist, pediatrician, osteopathic physician, naturopath, physician assistant, and advanced registered nurse practitioner licensed under Title 18 RCW.

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

(22) "Whole-person care in behavioral health" means a health care integration model in which primary care services are integrated into a behavioral health setting either through colocation or community-based care management.

Sec. 34. RCW 74.09.053 and 2009 c 568 s 6 and 2009 c 479 s 62 are each reenacted and amended to read as follows:

(1) Beginning in November 2012, the department of social and health services, in coordination with the health care authority, shall by November 15th of each year report to the legislature:

(a) The number of medical assistance recipients who: (i) Upon enrollment or recertification had reported being employed, and beginning with the 2008 report, the month and year they reported being hired; or (ii) upon enrollment or recertification had reported being the dependent of someone who was employed, and beginning with the 2008 report, the month and year they reported the employed person was hired. For recipients identified under (a)(i) and (ii) of this subsection, the department shall report the basis for their medical assistance eligibility, including but not limited to family medical coverage, transitional medical assistance, children's medical coverage, aged coverage, or coverage for ((~~persons~~)) individuals with disabilities; member months; and the total cost to the state for these recipients, expressed as general fund-state and general fund-federal dollars. The information shall be reported by employer size for employers having more than fifty employees as recipients or with dependents as recipients. This information shall be provided for the preceding January and June of that year.

(b) The following aggregated information: (i) The number of employees who are recipients or with dependents as recipients by private and governmental employers; (ii) the number of employees who are recipients or with dependents as recipients by employer size for employers with fifty or fewer employees, fifty-one to one hundred employees, one hundred one to one thousand employees, one thousand one to five thousand employees and more than five thousand employees; and (iii) the number of employees who are recipients or with dependents as recipients by industry type.

(2) For each aggregated classification, the report will include the number of hours worked, the number of department of social and health services covered lives, and the total cost to the state for these recipients. This information shall be for each quarter of the preceding year.

Sec. 35. RCW 74.09.171 and 2014 c 39 s 1 are each amended to read as follows:

(1) The legislature finds that the authority and the department purchase or contract for the delivery of medicaid programs((~~, including medical services with the~~)) through contracts with providers and managed care ((~~plans~~)) organizations under this chapter, ((~~mental health services with regional support networks or other~~)) contractors providing behavioral health services under chapters 71.24 and 71.34 RCW, ((~~chemical dependency services under chapters 74.50 and 70.96A RCW,~~)) and contractors providing long-term care services under chapter 74.39A RCW.

(2) The authority and department must collaborate and seek opportunities to expand access to care for enrollees in the medicaid programs identified in subsection (1) of this section living in border communities that may require contractual agreements with providers across the state border when care is appropriate, available, and cost-effective.

(3) All authority and department contracts for medicaid services issued or renewed after July 1, 2014, must include provisions that allow for care to be accessed cross-border ensuring timely access to necessary care, including inpatient and outpatient services. The contracts must include reciprocal arrangements that allow Washington, Oregon, and Idaho border residents to access care when care is appropriate, available, and cost-effective.

(((~~(4) The agencies must jointly report to the health care committees and fiscal committees of the legislature by November 1, 2014, with an update on the contractual opportunities and the anticipated impacts on patient access to timely care, the impact on the availability of inpatient and outpatient services, and the fiscal implications for the medicaid programs.~~)))

Sec. 36. RCW 74.09.215 and 2019 c 334 s 14 are each amended to read as follows:

The medicaid fraud penalty account is created in the state treasury. All receipts from civil penalties collected under RCW 74.09.210, all receipts received under judgments or settlements that originated under a filing under the federal false claims act, all receipts from fines received pursuant to RCW 43.71C.090, and all receipts received under judgments or settlements that originated under the state medicaid fraud false claims act, chapter 74.66 RCW, must be deposited into the account. Moneys in the account may be spent only after appropriation and must be used only for medicaid services, fraud detection and prevention activities, recovery of improper payments, for other medicaid fraud enforcement activities, and the prescription monitoring program established in chapter 70.225 RCW. ((~~For the 2013-2015 fiscal biennium, moneys in the account may be spent on inpatient and outpatient rebasing and conversion to the tenth version of the international classification of diseases. For the 2011-2013 fiscal biennium, moneys in the account may be spent on inpatient and outpatient rebasing.~~))

Sec. 37. RCW 74.09.220 and 2018 c 201 s 7010 are each amended to read as follows:

Any person, firm, corporation, partnership, association, agency, institution or other legal entity, but not including an individual public assistance recipient of health care, that, without intent to violate this chapter or other applicable law,

obtains benefits or payments under this code to which such person or entity is not entitled, or in a greater amount than that to which entitled, shall be liable for (1) any excess benefits or payments received, and (2) interest calculated at the rate and in the manner provided in RCW 43.20B.695 or 41.05A.220. Whenever a penalty is due under RCW 74.09.210 or interest is due under RCW 43.20B.695 or 41.05A.220, such penalty or interest shall not be reimbursable by the state as an allowable cost under any of the provisions of this chapter or other applicable law.

Sec. 38. RCW 74.09.325 and 2022 c 213 s 4 are each amended to read as follows:

(1)(a) ((~~Upon initiation or renewal of a contract with the Washington state health care authority to administer a medicaid managed care plan, a managed health care system~~)) All managed care organizations contracted with the authority for the medicaid program shall reimburse a provider for a health care service provided to a covered person through telemedicine or store and forward technology if:

(i) The ((~~medicaid~~)) managed care ((~~plan~~)) organization in which the covered person is enrolled provides coverage of the health care service when provided in person by the provider;

(ii) The health care service is medically necessary;

(iii) The health care service is a service recognized as an essential health benefit under section 1302(b) of the federal patient protection and affordable care act in effect on January 1, 2015;

(iv) The health care service is determined to be safely and effectively provided through telemedicine or store and forward technology according to generally accepted health care practices and standards, and the technology used to provide the health care service meets the standards required by state and federal laws governing the privacy and security of protected health information; and

(v) Beginning January 1, 2023, for audio-only telemedicine, the covered person has an established relationship with the provider.

(b)(i) Except as provided in (b)(ii) of this subsection, ((~~upon initiation or renewal of a contract with the Washington state health care authority to administer a medicaid managed care plan,~~)) a managed ((~~health~~)) care ((~~system~~)) organization shall reimburse a provider for a health care service provided to a covered person through telemedicine the same amount of compensation the managed ((~~health~~)) care ((~~system~~)) organization would pay the provider if the health care service was provided in person by the provider.

(ii) Hospitals, hospital systems, telemedicine companies, and provider groups consisting of eleven or more providers may elect to negotiate an amount of compensation for telemedicine services that differs from the amount of compensation for in-person services.

(iii) For purposes of this subsection (1)(b), the number of providers in a provider group refers to all providers within the group, regardless of a provider's location.

(iv) A rural health clinic shall be reimbursed for audio-only telemedicine at the rural health clinic encounter rate.

(2) For purposes of this section, reimbursement of store and forward technology is available only for those services specified in the negotiated

agreement between the managed ((~~health~~)) care ((~~system~~)) organization and health care provider.

(3) An originating site for a telemedicine health care service subject to subsection (1) of this section includes a:

(a) Hospital;

(b) Rural health clinic;

(c) Federally qualified health center;

(d) Physician's or other health care provider's office;

(e) Licensed or certified behavioral health agency;

(f) Skilled nursing facility;

(g) Home or any location determined by the individual receiving the service; or

(h) Renal dialysis center, except an independent renal dialysis center.

(4) Except for subsection (3)(g) of this section, any originating site under subsection (3) of this section may charge a facility fee for infrastructure and preparation of the patient. Reimbursement for a facility fee must be subject to a negotiated agreement between the originating site and the managed ((~~health~~)) care ((~~system~~)) organization. A distant site, a hospital that is an originating site for audio-only telemedicine, or any other site not identified in subsection (3) of this section may not charge a facility fee.

(5) A managed ((~~health~~)) care ((~~system~~)) organization may not distinguish between originating sites that are rural and urban in providing the coverage required in subsection (1) of this section.

(6) A managed ((~~health~~)) care ((~~system~~)) organization may subject coverage of a telemedicine or store and forward technology health service under subsection (1) of this section to all terms and conditions of the plan in which the covered person is enrolled including, but not limited to, utilization review, prior authorization, deductible, copayment, or coinsurance requirements that are applicable to coverage of a comparable health care service provided in person.

(7) This section does not require a managed ((~~health~~)) care ((~~system~~)) organization to reimburse:

(a) An originating site for professional fees;

(b) A provider for a health care service that is not a covered benefit under the plan; or

(c) An originating site or health care provider when the site or provider is not a contracted provider under the plan.

(8)(a) If a provider intends to bill a patient or a managed ((~~health~~)) care ((~~system~~)) organization for an audio-only telemedicine service, the provider must obtain patient consent for the billing in advance of the service being delivered and comply with all rules created by the authority related to restrictions on billing medicaid recipients. The authority may submit information on any potential violations of this subsection to the appropriate disciplining authority, as defined in RCW 18.130.020, or take contractual actions against the provider's agreement for participation in the medicaid program, or both.

(b) If the health care authority has cause to believe that a provider has engaged in a pattern of unresolved violations of this subsection (8), the health care authority may submit information to the appropriate disciplining authority for action. Prior to submitting information to the appropriate disciplining

authority, the health care authority may provide the provider with an opportunity to cure the alleged violations or explain why the actions in question did not violate this subsection (8).

(c) If the provider has engaged in a pattern of unresolved violations of this subsection (8), the appropriate disciplining authority may levy a fine or cost recovery upon the provider in an amount not to exceed the applicable statutory amount per violation and take other action as permitted under the authority of the disciplining authority. Upon completion of its review of any potential violation submitted by the health care authority or initiated directly by an enrollee, the disciplining authority shall notify the health care authority of the results of the review, including whether the violation was substantiated and any enforcement action taken as a result of a finding of a substantiated violation.

(9) For purposes of this section:

(a)(i) "Audio-only telemedicine" means the delivery of health care services through the use of audio-only technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment.

(ii) For purposes of this section only, "audio-only telemedicine" does not include:

(A) The use of facsimile or email; or

(B) The delivery of health care services that are customarily delivered by audio-only technology and customarily not billed as separate services by the provider, such as the sharing of laboratory results;

(b) "Disciplining authority" has the same meaning as in RCW 18.130.020;

(c) "Distant site" means the site at which a physician or other licensed provider, delivering a professional service, is physically located at the time the service is provided through telemedicine;

(d) "Established relationship" means the provider providing audio-only telemedicine has access to sufficient health records to ensure safe, effective, and appropriate care services and:

(i) For health care services included in the essential health benefits category of mental health and substance use disorder services, including behavioral health treatment:

(A) The covered person has had, within the past three years, at least one in-person appointment, or at least one real-time interactive appointment using both audio and video technology, with the provider providing audio-only telemedicine or with a provider employed at the same medical group, at the same clinic, or by the same integrated delivery system operated by a carrier licensed under chapter 48.44 or 48.46 RCW as the provider providing audio-only telemedicine; or

(B) The covered person was referred to the provider providing audio-only telemedicine by another provider who has had, within the past three years, at least one in-person appointment, or at least one real-time interactive appointment using both audio and video technology, with the covered person and has provided relevant medical information to the provider providing audio-only telemedicine;

(ii) For any other health care service:

(A) The covered person has had, within the past two years, at least one in-person appointment, or, until January 1, 2024, at least one real-time interactive

appointment using both audio and video technology, with the provider providing audio-only telemedicine or with a provider employed at the same medical group, at the same clinic, or by the same integrated delivery system operated by a carrier licensed under chapter 48.44 or 48.46 RCW as the provider providing audio-only telemedicine; or

(B) The covered person was referred to the provider providing audio-only telemedicine by another provider who has had, within the past two years, at least one in-person appointment, or, until January 1, 2024, at least one real-time interactive appointment using both audio and video technology, with the covered person and has provided relevant medical information to the provider providing audio-only telemedicine;

(e) "Health care service" has the same meaning as in RCW 48.43.005;

(f) "Hospital" means a facility licensed under chapter 70.41, 71.12, or 72.23 RCW;

(g) ((~~"Managed health care system" means any health care organization, including health care providers, insurers, health care service contractors, health maintenance organizations, health insuring organizations, or any combination thereof, that provides directly or by contract health care services covered under this chapter and rendered by licensed providers, on a prepaid capitated basis and that meets the requirements of section 1903(m)(1)(A) of Title XIX of the federal social security act or federal demonstration waivers granted under section 1115(a) of Title XI of the federal social security act;~~

~~(h)~~)) "Originating site" means the physical location of a patient receiving health care services through telemedicine;

(((~~(i)~~))) (h) "Provider" has the same meaning as in RCW 48.43.005;

(((~~(j)~~))) (i) "Store and forward technology" means use of an asynchronous transmission of a covered person's medical information from an originating site to the health care provider at a distant site which results in medical diagnosis and management of the covered person, and does not include the use of audio-only telephone, facsimile, or email; and

(((~~(k)~~))) (j) "Telemedicine" means the delivery of health care services through the use of interactive audio and video technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment. For purposes of this section only, "telemedicine" includes audio-only telemedicine, but does not include facsimile or email.

Sec. 39. RCW 74.09.328 and 2020 c 4 s 3 are each amended to read as follows:

(1) In order to protect patients and ensure that they benefit from seamless quality care when contracted providers are absent from their practices or when there is a temporary vacancy in a position while a hospital, rural health clinic, or rural provider is recruiting to meet patient demand, hospitals, rural health clinics, and rural providers may use substitute providers to provide services. Medicaid managed care organizations must allow for the use of substitute providers and provide payment consistent with the provisions in this section.

(2) Hospitals, rural health clinics, and rural providers that are contracted with a medicaid managed care organization may use substitute providers that are not contracted with a managed care organization when:

(a) A contracted provider is absent for a limited period of time due to vacation, illness, disability, continuing medical education, or other short-term absence; or

(b) A contracted hospital, rural health clinic, or rural provider is recruiting to fill an open position.

(3) For a substitute provider providing services under subsection (2)(a) of this section, a contracted hospital, rural health clinic, or rural provider may bill and receive payment for services at the contracted rate under its contract with the managed care organization for up to sixty days.

(4) To be eligible for reimbursement under this section for services provided on behalf of a contracted provider for greater than sixty days, a substitute provider must enroll in a medicaid managed care organization. Enrollment of a substitute provider in a medicaid managed care organization is effective on the later of:

(a) The date the substitute provider filed an enrollment application that was subsequently approved; or

(b) The date the substitute provider first began providing services at the hospital, rural health clinic, or rural provider.

(5) A substitute provider who enrolls with a medicaid managed care organization may not bill under subsection (4) of this section for any services billed to the medicaid managed care organization pursuant to subsection (3) of this section.

(6) Nothing in this section obligates a managed care organization to enroll any substitute provider who requests enrollment if they do not meet the organizations enrollment criteria.

(7) For purposes of this section:

(a) "Circumstances precluded enrollment" means that the provider has met all program requirements including state licensure during the thirty-day period before an application was submitted and no final adverse determination precluded enrollment. If a final adverse determination precluded enrollment during this thirty-day period, the contractor shall only establish an effective billing date the day after the date that the final adverse action was resolved, as long as it is not more than thirty days prior to the date on which the application was submitted.

(b) "Contracted provider" means a provider who is contracted with a medicaid managed care organization.

(c) "Hospital" means a facility licensed under chapter 70.41 or 71.12 RCW.

(d) "Rural health clinic" means a federally designated rural health clinic.

(e) "Rural provider" means physicians licensed under chapter 18.71 RCW, osteopathic physicians and surgeons licensed under chapter 18.57 RCW, podiatric physicians and surgeons licensed under chapter 18.22 RCW, physician assistants licensed under chapter 18.71A RCW, osteopathic physician assistants licensed under chapter ((~~18.57A~~)) 18.71A RCW, and advanced registered nurse practitioners licensed under chapter 18.79 RCW, who are located in a rural county as defined in RCW 82.14.370.

(f) "Substitute provider" includes physicians licensed under chapter 18.71 RCW, osteopathic physicians and surgeons licensed under chapter 18.57 RCW, podiatric physicians and surgeons licensed under chapter 18.22 RCW, physician assistants licensed under chapter 18.71A RCW, osteopathic physician assistants

licensed under chapter ((~~18.57A~~)) 18.71A RCW, and advanced registered nurse practitioners licensed under chapter 18.79 RCW.

Sec. 40. RCW 74.09.470 and 2018 c 58 s 2 are each amended to read as follows:

(1) Consistent with the goals established in RCW 74.09.402, through the apple health for kids program authorized in this section, the authority shall provide affordable health care coverage to children under the age of nineteen who reside in Washington state and whose family income at the time of enrollment is not greater than ((~~two hundred fifty~~)) 260 percent of the federal poverty level as adjusted for family size and determined annually by the federal department of health and human services, and effective January 1, 2009, and only to the extent that funds are specifically appropriated therefor, to children whose family income is not greater than ((~~three hundred~~)) 312 percent of the federal poverty level. In administering the program, the authority shall take such actions as may be necessary to ensure the receipt of federal financial participation under the medical assistance program, as codified at Title XIX of the federal social security act, the state children's health insurance program, as codified at Title XXI of the federal social security act, and any other federal funding sources that are now available or may become available in the future. The authority and the caseload forecast council shall estimate the anticipated caseload and costs of the program established in this section.

(2) The authority shall accept applications for enrollment for children's health care coverage; establish appropriate minimum-enrollment periods, as may be necessary; and determine eligibility based on current family income. The authority shall make eligibility determinations within the time frames for establishing eligibility for children on medical assistance, as defined by RCW 74.09.510. The application and annual renewal processes shall be designed to minimize administrative barriers for applicants and enrolled clients, and to minimize gaps in eligibility for families who are eligible for coverage. If a change in family income results in a change in the source of funding for coverage, the authority shall transfer the family members to the appropriate source of funding and notify the family with respect to any change in premium obligation, without a break in eligibility. The authority shall use the same eligibility redetermination and appeals procedures as those provided for children on medical assistance programs. The authority shall modify its eligibility renewal procedures to lower the percentage of children failing to annually renew. The authority shall manage its outreach, application, and renewal procedures with the goals of: (a) Achieving year by year improvements in enrollment, enrollment rates, renewals, and renewal rates; (b) maximizing the use of existing program databases to obtain information related to earned and unearned income for purposes of eligibility determination and renewals, including, but not limited to, the basic food program, the child care subsidy program, federal social security administration programs, and the employment security department wage database; (c) streamlining renewal processes to rely primarily upon data matches, online submissions, and telephone interviews; and (d) implementing any other eligibility determination and renewal processes to allow the state to receive an enhanced federal matching rate and additional federal outreach funding available through the federal children's health insurance program reauthorization act of 2009 by January 2010. The department

shall advise the governor and the legislature regarding the status of these efforts by September 30, 2009. The information provided should include the status of the department's efforts, the anticipated impact of those efforts on enrollment, and the costs associated with that enrollment.

(3) To ensure continuity of care and ease of understanding for families and health care providers, and to maximize the efficiency of the program, the amount, scope, and duration of health care services provided to children under this section shall be the same as that provided to children under medical assistance, as defined in RCW 74.09.520.

(4) The primary mechanism for purchasing health care coverage under this section shall be through contracts with managed health care systems as defined in RCW 74.09.522, subject to conditions, limitations, and appropriations provided in the biennial appropriations act. However, the authority shall make every effort within available resources to purchase health care coverage for uninsured children whose families have access to dependent coverage through an employer-sponsored health plan or another source when it is cost-effective for the state to do so, and the purchase is consistent with requirements of Title XIX and Title XXI of the federal social security act. To the extent allowable under federal law, the authority shall require families to enroll in available employer-sponsored coverage, as a condition of participating in the program established under this section, when it is cost-effective for the state to do so. Families who enroll in available employer- sponsored coverage under this section shall be accounted for separately in the annual report required by RCW 74.09.053.

(5)(a) To reflect appropriate parental responsibility, the authority shall develop and implement a schedule of premiums for children's health care coverage due to the authority from families with income greater than ((~~two hundred~~)) 210 percent of the federal poverty level. For families with income greater than ((~~two hundred fifty~~)) 260 percent of the federal poverty level, the premiums shall be established in consultation with the senate majority and minority leaders and the speaker and minority leader of the house of representatives. For children eligible for coverage under the federally funded children's health insurance program, Title XXI of the federal social security act, premiums shall be set at a reasonable level that does not pose a barrier to enrollment. The amount of the premium shall be based upon family income and shall not exceed the premium limitations in Title XXI of the federal social security act. For children who are not eligible for coverage under the federally funded children's health insurance program, premiums shall be set every two years in an amount no greater than the average state-only share of the per capita cost of coverage in the state-funded children's health program.

(b) Premiums shall not be imposed on children in households at or below ((~~two hundred~~)) 210 percent of the federal poverty level as articulated in RCW 74.09.055.

(c) ((~~Beginning no later than January 1, 2010, the~~)) The authority shall offer families whose income is greater than ((~~three hundred~~)) 312 percent of the federal poverty level the opportunity to purchase health care coverage for their children through the programs administered under this section without an explicit premium subsidy from the state. The design of the health benefit package offered to these children should provide a benefit package substantially similar to that offered in the apple health for kids program, and may differ with

respect to cost-sharing, and other appropriate elements from that provided to children under subsection (3) of this section including, but not limited to, application of preexisting conditions, waiting periods, and other design changes needed to offer affordable coverage. The amount paid by the family shall be in an amount equal to the rate paid by the state to the managed health care system for coverage of the child, including any associated and administrative costs to the state of providing coverage for the child. Any pooling of the program enrollees that results in state fiscal impact must be identified and brought to the legislature for consideration.

(6) The authority shall undertake and continue a proactive, targeted outreach and education effort with the goal of enrolling children in health coverage and improving the health literacy of youth and parents. The authority shall collaborate with the department of social and health services, department of health, local public health jurisdictions, the office of the superintendent of public instruction, the department of children, youth, and families, health educators, health care providers, health carriers, community-based organizations, and parents in the design and development of this effort. The outreach and education effort shall include the following components:

(a) Broad dissemination of information about the availability of coverage, including media campaigns;

(b) Assistance with completing applications, and community-based outreach efforts to help people apply for coverage. Community-based outreach efforts should be targeted to the populations least likely to be covered;

(c) Use of existing systems, such as enrollment information from the free and reduced-price lunch program, the department of children, youth, and families child care subsidy program, the department of health's women, infants, and children program, and the early childhood education and assistance program, to identify children who may be eligible but not enrolled in coverage;

(d) Contracting with community-based organizations and government entities to support community-based outreach efforts to help families apply for coverage. These efforts should be targeted to the populations least likely to be covered. The authority shall provide informational materials for use by government entities and community-based organizations in their outreach activities, and should identify any available federal matching funds to support these efforts;

(e) Development and dissemination of materials to engage and inform parents and families statewide on issues such as: The benefits of health insurance coverage; the appropriate use of health services, including primary care provided by health care practitioners licensed under chapters 18.71, 18.57, 18.36A, and 18.79 RCW, and emergency services; the value of a medical home, well-child services and immunization, and other preventive health services with linkages to department of health child profile efforts; identifying and managing chronic conditions such as asthma and diabetes; and the value of good nutrition and physical activity;

(f) An evaluation of the outreach and education efforts, based upon clear, cost-effective outcome measures that are included in contracts with entities that undertake components of the outreach and education effort;

(g) An implementation plan to develop online application capability that is integrated with the automated client eligibility system, and to develop data

linkages with the office of the superintendent of public instruction for free and reduced-price lunch enrollment information and the department of children, youth, and families for child care subsidy program enrollment information.

(7) The authority shall take action to increase the number of primary care physicians providing dental disease preventive services including oral health screenings, risk assessment, family education, the application of fluoride varnish, and referral to a dentist as needed.

(8) The department shall monitor the rates of substitution between private-sector health care coverage and the coverage provided under this section.

Sec. 41. RCW 74.09.4701 and 2011 c 4 s 19 are each amended to read as follows:

For apple health for kids, the department shall not count the twenty-five dollar increase paid as part of an individual's weekly benefit amount ((~~as provided in RCW 50.20.1202~~)) when determining family income, eligibility, and payment levels.

Sec. 42. RCW 74.09.480 and 2017 c 294 s 4 are each amended to read as follows:

(1) The authority, in collaboration with the department of health, department of social and health services, health carriers, local public health jurisdictions, children's health care providers including pediatricians, family practitioners, advanced registered nurse practitioners, certified nurse midwives, and pediatric subspecialists, community and migrant health centers, parents, and other purchasers, shall establish a concise set of explicit performance measures that can indicate whether children enrolled in the program are receiving health care through an established and effective medical home, and whether the overall health of enrolled children is improving. Such indicators may include, but are not limited to:

(a) Childhood immunization rates;

(b) Well child care utilization rates, including the use of behavioral and oral health screening, and validated, structured developmental screens using tools, that are consistent with nationally accepted pediatric guidelines and recommended administration schedule, once funding is specifically appropriated for this purpose;

(c) Care management for children with chronic illnesses;

(d) Emergency room utilization;

(e) Visual acuity and eye health;

(f) Preventive oral health service utilization; and

(g) Children's mental health status. In defining these measures the authority shall be guided by the measures provided in RCW 71.36.025.

Performance measures and targets for each performance measure must be established and monitored each biennium, with a goal of achieving measurable, improved health outcomes for the children of Washington state each biennium.

(2) Beginning in calendar year 2009, targeted provider rate increases shall be linked to quality improvement measures established under this section. The authority, in conjunction with those groups identified in subsection (1) of this section, shall develop parameters for determining criteria for increased payment, alternative payment methodologies, or other incentives for those practices and

health plans that incorporate evidence-based practice ((~~and improve~~)) and achieve sustained improvement with respect to the measures.

(3) The department shall provide a report to the governor and the legislature related to provider performance on these measures, as well as the information collected under RCW 74.09.475, beginning in September 2010 for 2007 through 2009 and the authority shall provide the report biennially thereafter.

Sec. 43. RCW 74.09.522 and 2020 c 260 s 1 are each amended to read as follows:

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

~~(a) "Managed health care system" means any health care organization, including health care providers, insurers, health care service contractors, health maintenance organizations, health insuring organizations, or any combination thereof, that provides directly or by contract health care services covered under this chapter or other applicable law and rendered by licensed providers, on a prepaid capitated basis and that meets the requirements of section 1903(m)(1)(A) of Title XIX of the federal social security act or federal demonstration waivers granted under section 1115(a) of Title XI of the federal social security act;~~

~~(b) "Nonparticipating~~)), "nonparticipating provider" means a person, health care provider, practitioner, facility, or entity, acting within their scope of practice, that does not have a written contract to participate in a managed ((~~health~~)) care ((~~system's~~)) organization's provider network, but provides health care services to enrollees of programs authorized under this chapter or other applicable law whose health care services are provided by the managed ((~~health~~)) care ((~~system~~)) organization.

(2) The authority shall enter into agreements with managed ((~~health~~)) care ((~~systems~~)) organizations to provide health care services to recipients of medicaid under the following conditions:

(a) Agreements shall be made for at least thirty thousand recipients statewide;

(b) Agreements in at least one county shall include enrollment of all recipients of programs as allowed for in the approved state plan amendment or federal waiver for Washington state's medicaid program;

(c) To the extent that this provision is consistent with section 1903(m) of Title XIX of the federal social security act or federal demonstration waivers granted under section 1115(a) of Title XI of the federal social security act, recipients shall have a choice of systems in which to enroll and shall have the right to terminate their enrollment in a system: PROVIDED, That the authority may limit recipient termination of enrollment without cause to the first month of a period of enrollment, which period shall not exceed twelve months: AND PROVIDED FURTHER, That the authority shall not restrict a recipient's right to terminate enrollment in a system for good cause as established by the authority by rule;

(d) To the extent that this provision is consistent with section 1903(m) of Title XIX of the federal social security act, participating managed ((~~health~~)) care ((~~systems~~)) organizations shall not enroll a disproportionate number of medical assistance recipients within the total numbers of persons served by the managed ((~~health~~)) care ((~~systems~~)) organizations, except as authorized by the authority

under federal demonstration waivers granted under section 1115(a) of Title XI of the federal social security act;

(e)(i) In negotiating with managed ((~~health~~)) care ((~~systems~~)) organizations the authority shall adopt a uniform procedure to enter into contractual arrangements, including:

(A) Standards regarding the quality of services to be provided;

(B) The financial integrity of the responding system;

(C) Provider reimbursement methods that incentivize chronic care management within health homes, including comprehensive medication management services for patients with multiple chronic conditions consistent with the findings and goals established in RCW 74.09.5223;

(D) Provider reimbursement methods that reward health homes that, by using chronic care management, reduce emergency department and inpatient use;

(E) Promoting provider participation in the program of training and technical assistance regarding care of people with chronic conditions described in RCW 43.70.533, including allocation of funds to support provider participation in the training, unless the managed care ((~~system~~)) organization is an integrated health delivery system that has programs in place for chronic care management;

(F) Provider reimbursement methods within the medical billing processes that incentivize pharmacists or other qualified providers licensed in Washington state to provide comprehensive medication management services consistent with the findings and goals established in RCW 74.09.5223;

(G) Evaluation and reporting on the impact of comprehensive medication management services on patient clinical outcomes and total health care costs, including reductions in emergency department utilization, hospitalization, and drug costs; and

(H) Established consistent processes to incentivize integration of behavioral health services in the primary care setting, promoting care that is integrated, collaborative, colocated, and preventive.

(ii)(A) Health home services contracted for under this subsection may be prioritized to enrollees with complex, high cost, or multiple chronic conditions.

(B) Contracts that include the items in (e)(i)(C) through (G) of this subsection must not exceed the rates that would be paid in the absence of these provisions;

(f) The authority shall seek waivers from federal requirements as necessary to implement this chapter;

(g) The authority shall, wherever possible, enter into prepaid capitation contracts that include inpatient care. However, if this is not possible or feasible, the authority may enter into prepaid capitation contracts that do not include inpatient care;

(h) The authority shall define those circumstances under which a managed ((~~health~~)) care ((~~system~~)) organization is responsible for out-of-plan services and assure that recipients shall not be charged for such services;

(i) Nothing in this section prevents the authority from entering into similar agreements for other groups of people eligible to receive services under this chapter; and

(j) The authority must consult with the federal center for medicare and medicaid innovation and seek funding opportunities to support health homes.

(3) The authority shall ensure that publicly supported community health centers and providers in rural areas, who show serious intent and apparent capability to participate as managed ((~~health~~)) care ((~~systems~~)) organizations are seriously considered as contractors. The authority shall coordinate its managed care activities with activities under chapter 70.47 RCW.

(4) The authority shall work jointly with the state of Oregon and other states in this geographical region in order to develop recommendations to be presented to the appropriate federal agencies and the United States congress for improving health care of the poor, while controlling related costs.

(5) The legislature finds that competition in the managed health care marketplace is enhanced, in the long term, by the existence of a large number of managed ((~~health~~)) care ((~~system~~)) organization options for medicaid clients. In a managed care delivery system, whose goal is to focus on prevention, primary care, and improved enrollee health status, continuity in care relationships is of substantial importance, and disruption to clients and health care providers should be minimized. To help ensure these goals are met, the following principles shall guide the authority in its healthy options managed health care purchasing efforts:

(a) All managed ((~~health~~)) care ((~~systems~~)) organizations should have an opportunity to contract with the authority to the extent that minimum contracting requirements defined by the authority are met, at payment rates that enable the authority to operate as far below appropriated spending levels as possible, consistent with the principles established in this section.

(b) Managed ((~~health~~)) care ((~~systems~~)) organizations should compete for the award of contracts and assignment of medicaid beneficiaries who do not voluntarily select a contracting system, based upon:

(i) Demonstrated commitment to or experience in serving low-income populations;

(ii) Quality of services provided to enrollees;

(iii) Accessibility, including appropriate utilization, of services offered to enrollees;

(iv) Demonstrated capability to perform contracted services, including ability to supply an adequate provider network;

(v) Payment rates; and

(vi) The ability to meet other specifically defined contract requirements established by the authority, including consideration of past and current performance and participation in other state or federal health programs as a contractor.

(c) Consideration should be given to using multiple year contracting periods.

(d) Quality, accessibility, and demonstrated commitment to serving low-income populations shall be given significant weight in the contracting, evaluation, and assignment process.

(e) All contractors that are regulated health carriers must meet state minimum net worth requirements as defined in applicable state laws. The authority shall adopt rules establishing the minimum net worth requirements for contractors that are not regulated health carriers. This subsection does not limit the authority of the Washington state health care authority to take action under a

contract upon finding that a contractor's financial status seriously jeopardizes the contractor's ability to meet its contract obligations.

(f) Procedures for resolution of disputes between the authority and contract bidders or the authority and contracting carriers related to the award of, or failure to award, a managed care contract must be clearly set out in the procurement document.

(6) The authority may apply the principles set forth in subsection (5) of this section to its managed health care purchasing efforts on behalf of clients receiving supplemental security income benefits to the extent appropriate.

(7) Any contract with a managed ((~~health~~)) care ((~~system~~)) organization to provide services to medical assistance enrollees shall require that managed ((~~health~~)) care ((~~systems~~)) organizations offer contracts to mental health providers and substance use disorder treatment providers to provide access to primary care services integrated into behavioral health clinical settings, for individuals with behavioral health and medical comorbidities.

(8) Managed ((~~health~~)) care ((~~system~~)) organization contracts effective on or after April 1, 2016, shall serve geographic areas that correspond to the regional service areas established in RCW 74.09.870.

(9) A managed ((~~health~~)) care ((~~system~~)) organization shall pay a nonparticipating provider that provides a service covered under this chapter or other applicable law to the ((~~system's~~)) organization's enrollee no more than the lowest amount paid for that service under the managed ((~~health~~)) care ((~~system's~~)) organization's contracts with similar providers in the state if the managed ((~~health~~)) care ((~~system~~)) organization has made good faith efforts to contract with the nonparticipating provider.

(10) For services covered under this chapter or other applicable law to medical assistance or medical care services enrollees, nonparticipating providers must accept as payment in full the amount paid by the managed ((~~health~~)) care ((~~system~~)) organization under subsection (9) of this section in addition to any deductible, coinsurance, or copayment that is due from the enrollee for the service provided. An enrollee is not liable to any nonparticipating provider for covered services, except for amounts due for any deductible, coinsurance, or copayment under the terms and conditions set forth in the managed ((~~health~~)) care ((~~system~~)) organization contract to provide services under this section.

(11) Pursuant to federal managed care access standards, 42 C.F.R. Sec. 438, managed ((~~health~~)) care ((~~systems~~)) organizations must maintain a network of appropriate providers that is supported by written agreements sufficient to provide adequate access to all services covered under the contract with the authority, including hospital-based physician services. The authority will monitor and periodically report on the proportion of services provided by contracted providers and nonparticipating providers, by county, for each managed ((~~health~~)) care ((~~system~~)) organization to ensure that managed health care systems are meeting network adequacy requirements. No later than January 1st of each year, the authority will review and report its findings to the appropriate policy and fiscal committees of the legislature for the preceding state fiscal year.

(12) Payments under RCW 74.60.130 are exempt from this section.

Sec. 44. RCW 74.09.630 and 2021 c 273 s 5 are each amended to read as follows:

Until the opioid overdose reversal medication bulk purchasing and distribution program established in RCW 70.14.170 is operational:

(1) ((~~Upon initiation or renewal of a contract with the authority to administer a~~)) All medicaid managed care ((~~plan, a managed care~~)) organizations must reimburse a hospital or behavioral health agency for dispensing or distributing opioid overdose reversal medication to a covered person under RCW 70.41.485 and 71.24.594.

(2) If the person is not enrolled in a medicaid managed care ((~~plan~~)) organization and does not have any other available insurance coverage, the authority must reimburse a hospital, behavioral health agency, or pharmacy for dispensing or distributing opioid overdose reversal medication under RCW 70.41.485 and 71.24.594.

Sec. 45. RCW 74.09.634 and 2021 c 273 s 12 are each amended to read as follows:

(1) ((~~Upon initiation or renewal of a contract with the authority to administer a medicaid managed care plan, a~~)) All medicaid contracted managed health care ((~~system~~)) organizations must participate in the opioid overdose reversal medication bulk purchasing and distribution program established in RCW 70.14.170 once the program is operational.

(2) The health care authority must participate in the opioid overdose reversal medication bulk purchasing and distribution program established in RCW 70.14.170 once the program is operational for purposes of individuals enrolled in medical assistance under this chapter that are not enrolled in a managed care ((~~plan~~)) organization and are uninsured individuals.

Sec. 46. RCW 74.09.645 and 2019 c 314 s 38 are each amended to read as follows:

((~~Upon initiation or renewal of a contract with the authority to administer a medicaid managed care plan, a~~)) All medicaid contracted managed ((~~health~~)) care ((~~system~~)) organizations shall provide coverage without prior authorization of at least one federal food and drug administration approved product for the treatment of opioid use disorder in the drug classes opioid agonists, opioid antagonists, and opioid partial agonists.

Sec. 47. RCW 74.09.650 and 2003 1st sp.s. c 29 s 2 are each amended to read as follows:

(1) To the extent funds are appropriated specifically for this purpose, and subject to any conditions placed on appropriations made for this purpose, the ((~~department~~)) authority shall design a medicaid prescription drug assistance program. Neither the benefits of, nor eligibility for, the program is considered to be an entitlement.

(2) The ((~~department~~)) authority shall request any federal waiver necessary to implement this program. Consistent with federal waiver conditions, the department may charge enrollment fees, premiums, or point-of-service cost-sharing to program enrollees.

(3) Eligibility for this program is limited to persons:

(a) Who are eligible for medicare or age sixty-five and older;

(b) Whose family income does not exceed two hundred percent of the federal poverty level as adjusted for family size and determined annually by the federal department of health and human services;

(c) Who lack insurance that provides prescription drug coverage; and

(d) Who are not otherwise eligible under Title XIX of the federal social security act.

(4) The ((~~department~~)) authority shall use a cost-effective prescription drug benefit design. Consistent with federal waiver conditions, this benefit design may be different than the benefit design offered under the medical assistance program. The benefit design may include a deductible benefit that provides coverage when enrollees incur higher prescription drug costs as defined by the department. The ((~~department~~)) authority also may offer more than one benefit design.

(5) The ((~~department~~)) authority shall limit enrollment of persons who qualify for the program so as to prevent an overexpenditure of appropriations for this program or to assure necessary compliance with federal waiver budget neutrality requirements. The ((~~department~~)) authority may not reduce existing medical assistance program eligibility or benefits to assure compliance with federal waiver budget neutrality requirements.

(6) Premiums paid by medicaid enrollees not in the medicaid prescription drug assistance program may not be used to finance the medicaid prescription drug assistance program.

(7) This program will be terminated within twelve months after implementation of a prescription drug benefit under Title XVIII of the federal social security act.

(((~~(8) The department shall provide recommendations to the appropriate committees of the senate and house of representatives by November 15, 2003, on financing options available to support the medicaid prescription drug assistance program. In recommending financing options, the department shall explore every opportunity to maximize federal funding to support the program.~~)))

Sec. 48. RCW 74.09.653 and 2011 1st sp.s. c 15 s 60 are each amended to read as follows:

A committee or council required by federal law, within the health care authority, that makes policy recommendations regarding reimbursement for drugs under the requirements of federal law or regulations is subject to chapter((~~s~~)) 42.30 ((~~and 42.32~~)) RCW.

Sec. 49. RCW 74.09.655 and 2011 1st sp.s. c 15 s 39 are each amended to read as follows:

The authority shall provide coverage under this chapter for smoking cessation counseling services, as well as prescription and nonprescription agents when used to promote smoking cessation, so long as such agents otherwise meet the definition of "covered outpatient drug" in 42 U.S.C. Sec. 1396r-8(k). However, the authority may initiate an individualized inquiry and determine and implement by rule appropriate coverage limitations as may be required to encourage the use of effective, evidence-based services and prescription and nonprescription agents. ((~~The authority shall track per capita expenditures for a cohort of clients that receive smoking cessation benefits, and submit a cost-benefit analysis to the legislature on or before January 1, 2012.~~))

Sec. 50. RCW 74.09.657 and 2011 1st sp.s. c 41 s 1 are each amended to read as follows:

The legislature finds that:

(1) Over half of all births in Washington state are covered by public programs;

(2) Research has demonstrated that children of unintended pregnancies receive less prenatal care and are at higher risk for premature birth, low birth weight, neurological disorders, and poor academic performance;

(3) In Washington state, over ((~~fifty~~)) 50 percent of unintended pregnancies occur in women age ((~~twenty-five~~)) 25 years and older;

(4) Washington state's take charge program has been successful in helping women avoid unintended pregnancies; however, when the caseload declined due to federally mandated changes, the rate of unintended pregnancies increased dramatically;

(5) Expanding family planning services to cover women to ((~~two hundred fifty~~)) 260 percent of the federal poverty level would align that program's eligibility standard with income eligibility for publicly funded maternity care service; and

(6) Such an expansion would reduce unintended pregnancies and associated costs to the state.

Sec. 51. RCW 74.09.659 and 2011 1st sp.s. c 41 s 2 and 2011 1st sp.s. c 15 s 41 are each reenacted and amended to read as follows:

(1) The authority shall continue to submit applications for the family planning waiver program.

(2) The authority shall submit a request to the federal department of health and human services to amend the current family planning waiver program as follows:

(a) Provide coverage for sexually transmitted disease testing and treatment; and

(b) Return to the eligibility standards used in 2005 including, but not limited to, citizenship determination based on declaration or matching with federal social security databases, insurance eligibility standards comparable to 2005, and confidential service availability for minors and survivors of domestic and sexual violence((~~; and~~

~~(c) By September 30, 2011, submit an application to increase income eligibility to two hundred fifty percent of the federal poverty level, to correspond with income eligibility for publicly funded maternity care services~~)).

Sec. 52. RCW 74.09.860 and 2018 c 27 s 1 are each amended to read as follows:

(1) The authority shall issue a request for proposals to provide integrated managed health and behavioral health care for foster children receiving care through the medical assistance program. Behavioral health services provided under chapters 71.24 and 71.34 RCW must be integrated into the managed ((~~health~~)) care ((~~plan~~)) organization for foster children beginning January 1, 2019. The request for proposals must address the program elements described in section 110, chapter 225, Laws of 2014, including development of a service delivery system, benefit design, reimbursement mechanisms, incorporation or coordination of services currently provided by the regional support networks, and standards for contracting with health ((~~plans~~)) organizations. The request for proposals must be issued and completed in time for services under the integrated managed care plan to begin on October 1, 2016.

(2) The parent or guardian of a child who is no longer a dependent child pursuant to chapter 13.34 RCW may choose to continue in the transitional foster care eligibility category for up to twelve months following reunification with the child's parents or guardian if the child:

(a) Is under eighteen years of age;

(b) Was in foster care under the legal responsibility of the department of social and health services, the department of children, youth, and families, or a federally recognized Indian tribe located within the state; and

(c) Meets income and other eligibility standards for medical assistance coverage.

NEW SECTION. **Sec. 53.** The following acts or parts of acts are each repealed:

(1) RCW 41.05.090 (Continuation of coverage of employee, spouse, or covered dependent ineligible under state plan—Exceptions) and 1990 c 222 s 5 & 1979 c 125 s 3;

(2) RCW 41.05.205 (Tricare supplemental insurance policy—Authority to offer—Rules) and 2005 c 46 s 1;

(3) RCW 41.05.240 (American Indian health care delivery plan) and 1993 c 492 s 468; and

(4) RCW 74.09.720 (Prevention of blindness program) and 2011 1st sp.s. c 15 s 45 & 1983 c 194 s 26.

NEW SECTION. **Sec. 54.** The following sections are decodified:

(1) RCW 41.05.033 (Shared decision-making demonstration project—Preference-sensitive care);

(2) RCW 41.05.110 (Chapter not applicable to officers and employees of state convention and trade center);

(3) RCW 41.05.280 (Department of corrections—Inmate health care);

(4) RCW 41.05.680 (Report—Chronic care management); and

(5) RCW 74.09.756 (Medicaid and state children's health insurance program demonstration project).

Passed by the Senate March 6, 2023.
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CHAPTER 52

[Engrossed Senate Bill 5623]

HATE CRIME OFFENSES—ELEMENTS AND PROSECUTING STANDARDS

AN ACT Relating to modifying an element of the offense of hate crime and classifying a hate crime as crimes against persons; and amending RCW 9A.36.080 and 9.94A.411.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 9A.36.080 and 2019 c 271 s 2 are each amended to read as follows:

(1) A person is guilty of a hate crime offense if he or she maliciously and intentionally commits one of the following acts because of his or her perception of the victim's race, color, religion, ancestry, national origin, gender, sexual

orientation, gender expression or identity, or mental, physical, or sensory disability:

(a) ((~~Causes physical injury to~~)) Assaults the victim or another person;

(b) Causes physical damage to or destruction of the property of the victim or another person; or

(c) Threatens a specific person or group of persons and places that person, or members of the specific group of persons, in reasonable fear of harm to person or property. The fear must be a fear that a reasonable person would have under all the circumstances. For purposes of this section, a "reasonable person" is a reasonable person who is a member of the victim's race, color, religion, ancestry, national origin, gender, or sexual orientation, or who has the same gender expression or identity, or the same mental, physical, or sensory disability as the victim. Words alone do not constitute a hate crime offense unless the context or circumstances surrounding the words indicate the words are a threat. Threatening words do not constitute a hate crime offense if it is apparent to the victim that the person does not have the ability to carry out the threat.

(2) In any prosecution for a hate crime offense, unless evidence exists which explains to the trier of fact's satisfaction that the person did not intend to threaten the victim or victims, the trier of fact may infer that the person intended to threaten a specific victim or group of victims because of the person's perception of the victim's or victims' race, color, religion, ancestry, national origin, gender, sexual orientation, gender expression or identity, or mental, physical, or sensory disability if the person commits one of the following acts:

(a) Burns a cross on property of a victim who is or whom the actor perceives to be of African American heritage;

(b) Defaces property of a victim who is or whom the actor perceives to be of Jewish heritage by defacing the property with a ((~~swastika~~)) Nazi emblem, symbol, or hakenkreuz;

(c) Defaces religious real property with words, symbols, or items that are derogatory to persons of the faith associated with the property;

(d) Places a vandalized or defaced religious item or scripture on the property of a victim who is or whom the actor perceives to be of the faith with which that item or scripture is associated;

(e) Damages, destroys, or defaces religious garb or other faith-based attire belonging to the victim or attempts to or successfully removes religious garb or other faith-based attire from the victim's person without the victim's authorization; or

(f) Places a noose on the property of a victim who is or whom the actor perceives to be of a racial or ethnic minority group.

This subsection only applies to the creation of a reasonable inference for evidentiary purposes. This subsection does not restrict the state's ability to prosecute a person under subsection (1) of this section when the facts of a particular case do not fall within (a) through (f) of this subsection.

(3) It is not a defense that the accused was mistaken that the victim was a member of a certain race, color, religion, ancestry, national origin, gender, or sexual orientation, had a particular gender expression or identity, or had a mental, physical, or sensory disability.

(4) Evidence of expressions or associations of the accused may not be introduced as substantive evidence at trial unless the evidence specifically

relates to the crime charged. Nothing in this chapter shall affect the rules of evidence governing impeachment of a witness.

(5) Every person who commits another crime during the commission of a crime under this section may be punished and prosecuted for the other crime separately.

(6) For the purposes of this section:

(a) "Gender expression or identity" means having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to that person at birth.

(b) "Sexual orientation" means heterosexuality, homosexuality, or bisexuality.

(c) "Threat" means to communicate, directly or indirectly, the intent to:

(i) Cause bodily injury immediately or in the future to the person threatened or to any other person; or

(ii) Cause physical damage immediately or in the future to the property of a person threatened or that of any other person.

(7) Commission of a hate crime offense is a class C felony.

(8) The penalties provided in this section for hate crime offenses do not preclude the victims from seeking any other remedies otherwise available under law.

(9) Nothing in this section confers or expands any civil rights or protections to any group or class identified under this section, beyond those rights or protections that exist under the federal or state Constitution or the civil laws of the state of Washington.

Sec. 2. RCW 9.94A.411 and 2021 c 215 s 98 are each amended to read as follows:

(1) Decision not to prosecute.

STANDARD: A prosecuting attorney may decline to prosecute, even though technically sufficient evidence to prosecute exists, in situations where prosecution would serve no public purpose, would defeat the underlying purpose of the law in question or would result in decreased respect for the law.

GUIDELINE/COMMENTARY:

Examples

The following are examples of reasons not to prosecute which could satisfy the standard.

(a) Contrary to Legislative Intent - It may be proper to decline to charge where the application of criminal sanctions would be clearly contrary to the intent of the legislature in enacting the particular statute.

(b) Antiquated Statute - It may be proper to decline to charge where the statute in question is antiquated in that:

(i) It has not been enforced for many years; and

(ii) Most members of society act as if it were no longer in existence; and

(iii) It serves no deterrent or protective purpose in today's society; and

(iv) The statute has not been recently reconsidered by the legislature.

This reason is not to be construed as the basis for declining cases because the law in question is unpopular or because it is difficult to enforce.

(c) De Minimis Violation - It may be proper to decline to charge where the violation of law is only technical or insubstantial and where no public interest or deterrent purpose would be served by prosecution.

(d) Confinement on Other Charges - It may be proper to decline to charge because the accused has been sentenced on another charge to a lengthy period of confinement; and

(i) Conviction of the new offense would not merit any additional direct or collateral punishment;

(ii) The new offense is either a misdemeanor or a felony which is not particularly aggravated; and

(iii) Conviction of the new offense would not serve any significant deterrent purpose.

(e) Pending Conviction on Another Charge - It may be proper to decline to charge because the accused is facing a pending prosecution in the same or another county; and

(i) Conviction of the new offense would not merit any additional direct or collateral punishment;

(ii) Conviction in the pending prosecution is imminent;

(iii) The new offense is either a misdemeanor or a felony which is not particularly aggravated; and

(iv) Conviction of the new offense would not serve any significant deterrent purpose.

(f) High Disproportionate Cost of Prosecution - It may be proper to decline to charge where the cost of locating or transporting, or the burden on, prosecution witnesses is highly disproportionate to the importance of prosecuting the offense in question. This reason should be limited to minor cases and should not be relied upon in serious cases.

(g) Improper Motives of Complainant - It may be proper to decline charges because the motives of the complainant are improper and prosecution would serve no public purpose, would defeat the underlying purpose of the law in question or would result in decreased respect for the law.

(h) Immunity - It may be proper to decline to charge where immunity is to be given to an accused in order to prosecute another where the accused's information or testimony will reasonably lead to the conviction of others who are responsible for more serious criminal conduct or who represent a greater danger to the public interest.

(i) Victim Request - It may be proper to decline to charge because the victim requests that no criminal charges be filed and the case involves the following crimes or situations:

(i) Assault cases where the victim has suffered little or no injury;

(ii) Crimes against property, not involving violence, where no major loss was suffered;

(iii) Where doing so would not jeopardize the safety of society.

Care should be taken to insure that the victim's request is freely made and is not the product of threats or pressure by the accused.

The presence of these factors may also justify the decision to dismiss a prosecution which has been commenced.

Notification

The prosecutor is encouraged to notify the victim, when practical, and the law enforcement personnel, of the decision not to prosecute.

(2) Decision to prosecute.

(a) STANDARD:

Crimes against persons will be filed if sufficient admissible evidence exists, which, when considered with the most plausible, reasonably foreseeable defense that could be raised under the evidence, would justify conviction by a reasonable and objective fact finder. With regard to offenses prohibited by RCW 9A.44.040, 9A.44.050, 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, 9A.44.089, and 9A.64.020 the prosecutor should avoid prefiling agreements or diversions intended to place the accused in a program of treatment or counseling, so that treatment, if determined to be beneficial, can be provided pursuant to RCW 9.94A.670.

Crimes against property/other crimes will be filed if the admissible evidence is of such convincing force as to make it probable that a reasonable and objective fact finder would convict after hearing all the admissible evidence and the most plausible defense that could be raised.

See table below for the crimes within these categories.

CATEGORIZATION OF CRIMES FOR PROSECUTING STANDARDS

CRIMES AGAINST PERSONS
Aggravated Murder (RCW 10.95.020)
1st Degree Murder (RCW 9A.32.030)
2nd Degree Murder (RCW 9A.32.050)
1st Degree Manslaughter (RCW 9A.32.060)
2nd Degree Manslaughter (RCW 9A.32.070)
1st Degree Kidnapping (RCW 9A.40.020)
2nd Degree Kidnapping (RCW 9A.40.030)
1st Degree Assault (RCW 9A.36.011)
2nd Degree Assault (RCW 9A.36.021)
3rd Degree Assault (RCW 9A.36.031)
4th Degree Assault (if a violation of RCW 9A.36.041(3))
1st Degree Assault of a Child (RCW 9A.36.120)
2nd Degree Assault of a Child (RCW 9A.36.130)
3rd Degree Assault of a Child (RCW 9A.36.140)
1st Degree Rape (RCW 9A.44.040)
2nd Degree Rape (RCW 9A.44.050)
3rd Degree Rape (RCW 9A.44.060)
1st Degree Rape of a Child (RCW 9A.44.073)
2nd Degree Rape of a Child (RCW 9A.44.076)
3rd Degree Rape of a Child (RCW 9A.44.079)
1st Degree Robbery (RCW 9A.56.200)
2nd Degree Robbery (RCW 9A.56.210)
1st Degree Arson (RCW 9A.48.020)
1st Degree Burglary (RCW 9A.52.020)
1st Degree Identity Theft (RCW 9.35.020(2))
2nd Degree Identity Theft (RCW 9.35.020(3))
1st Degree Extortion (RCW 9A.56.120)
2nd Degree Extortion (RCW 9A.56.130)

1st Degree Criminal Mistreatment (RCW 9A.42.020)
2nd Degree Criminal Mistreatment (RCW 9A.42.030)
1st Degree Theft from a Vulnerable Adult (RCW 9A.56.400(1))
2nd Degree Theft from a Vulnerable Adult (RCW 9A.56.400(2))
Hate Crime (RCW 9A.36.080)
Indecent Liberties (RCW 9A.44.100)
Incest (RCW 9A.64.020)
Vehicular Homicide (RCW 46.61.520)
Vehicular Assault (RCW 46.61.522)
1st Degree Child Molestation (RCW 9A.44.083)
2nd Degree Child Molestation (RCW 9A.44.086)
3rd Degree Child Molestation (RCW 9A.44.089)
1st Degree Promoting Prostitution (RCW 9A.88.070)
Intimidating a Juror (RCW 9A.72.130)
Communication with a Minor (RCW 9.68A.090)
Intimidating a Witness (RCW 9A.72.110)
Intimidating a Public Servant (RCW 9A.76.180)
Bomb Threat (if against person) (RCW 9.61.160)
Unlawful Imprisonment (RCW 9A.40.040)
Promoting a Suicide Attempt (RCW 9A.36.060)
Criminal Mischief (if against person) (RCW 9A.84.010)
Stalking (RCW 9A.46.110)
Custodial Assault (RCW 9A.36.100)
Domestic Violence Court Order Violation (RCW 7.105.450, 10.99.040, 10.99.050, 26.09.300, 26.10.220, 26.26B.050, or 26.52.070, or any of the former RCW 26.50.110 and 74.34.145)
Counterfeiting (if a violation of RCW 9.16.035(4))
Felony Driving a Motor Vehicle While Under the Influence of Intoxicating Liquor or Any Drug (RCW 46.61.502(6))
Felony Physical Control of a Motor Vehicle While Under the Influence of Intoxicating Liquor or Any Drug (RCW 46.61.504(6))

CRIMES AGAINST PROPERTY/OTHER CRIMES
2nd Degree Arson (RCW 9A.48.030)
1st Degree Escape (RCW 9A.76.110)
2nd Degree Escape (RCW 9A.76.120)
2nd Degree Burglary (RCW 9A.52.030)
1st Degree Theft (RCW 9A.56.030)
2nd Degree Theft (RCW 9A.56.040)
1st Degree Perjury (RCW 9A.72.020)
2nd Degree Perjury (RCW 9A.72.030)
1st Degree Introducing Contraband (RCW 9A.76.140)
2nd Degree Introducing Contraband (RCW 9A.76.150)
1st Degree Possession of Stolen Property (RCW 9A.56.150)
2nd Degree Possession of Stolen Property (RCW 9A.56.160)
Bribery (RCW 9A.68.010)
Bribing a Witness (RCW 9A.72.090)
Bribe received by a Witness (RCW 9A.72.100)
Bomb Threat (if against property) (RCW 9.61.160)

1st Degree Malicious Mischief (RCW 9A.48.070)
2nd Degree Malicious Mischief (RCW 9A.48.080)
1st Degree Reckless Burning (RCW 9A.48.040)
Taking a Motor Vehicle without Authorization (RCW 9A.56.070 and 9A.56.075)
Forgery (RCW 9A.60.020)
2nd Degree Promoting Prostitution (RCW 9A.88.080)
Tampering with a Witness (RCW 9A.72.120)
Trading in Public Office (RCW 9A.68.040)
Trading in Special Influence (RCW 9A.68.050)
Receiving/Granting Unlawful Compensation (RCW 9A.68.030)
Bigamy (RCW 9A.64.010)
Eluding a Pursuing Police Vehicle (RCW 46.61.024)
Willful Failure to Return from Furlough
Escape from Community Custody
Criminal Mischief (if against property) (RCW 9A.84.010)
1st Degree Theft of Livestock (RCW 9A.56.080)
2nd Degree Theft of Livestock (RCW 9A.56.083)

ALL OTHER UNCLASSIFIED FELONIES
Selection of Charges/Degree of Charge
(i) The prosecutor should file charges which adequately describe the nature of defendant's conduct. Other offenses may be charged only if they are necessary to ensure that the charges:
(A) Will significantly enhance the strength of the state's case at trial; or
(B) Will result in restitution to all victims.
(ii) The prosecutor should not overcharge to obtain a guilty plea. Overcharging includes:
(A) Charging a higher degree;
(B) Charging additional counts.
This standard is intended to direct prosecutors to charge those crimes which demonstrate the nature and seriousness of a defendant's criminal conduct, but to decline to charge crimes which are not necessary to such an indication. Crimes which do not merge as a matter of law, but which arise from the same course of conduct, do not all have to be charged.

(b) GUIDELINES/COMMENTARY:
(i) Police Investigation
A prosecuting attorney is dependent upon law enforcement agencies to conduct the necessary factual investigation which must precede the decision to prosecute. The prosecuting attorney shall ensure that a thorough factual investigation has been conducted before a decision to prosecute is made. In ordinary circumstances the investigation should include the following:
(A) The interviewing of all material witnesses, together with the obtaining of written statements whenever possible;
(B) The completion of necessary laboratory tests; and
(C) The obtaining, in accordance with constitutional requirements, of the suspect's version of the events.

If the initial investigation is incomplete, a prosecuting attorney should insist upon further investigation before a decision to prosecute is made, and specify what the investigation needs to include.

(ii) Exceptions

In certain situations, a prosecuting attorney may authorize filing of a criminal complaint before the investigation is complete if:

(A) Probable cause exists to believe the suspect is guilty; and

(B) The suspect presents a danger to the community or is likely to flee if not apprehended; or

(C) The arrest of the suspect is necessary to complete the investigation of the crime.

In the event that the exception to the standard is applied, the prosecuting attorney shall obtain a commitment from the law enforcement agency involved to complete the investigation in a timely manner. If the subsequent investigation does not produce sufficient evidence to meet the normal charging standard, the complaint should be dismissed.

(iii) Investigation Techniques

The prosecutor should be fully advised of the investigatory techniques that were used in the case investigation including:

(A) Polygraph testing;

(B) Hypnosis;

(C) Electronic surveillance;

(D) Use of informants.

(iv) Prefiling Discussions with Defendant

Discussions with the defendant or his/her representative regarding the selection or disposition of charges may occur prior to the filing of charges, and potential agreements can be reached.

(v) Prefiling Discussions with Victim(s)

Discussions with the victim(s) or victims' representatives regarding the selection or disposition of charges may occur before the filing of charges. The discussions may be considered by the prosecutor in charging and disposition decisions, and should be considered before reaching any agreement with the defendant regarding these decisions.

Passed by the Senate February 22, 2023.
Passed by the House March 23, 2023.
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Filed in Office of Secretary of State April 6, 2023.

CHAPTER 53

[House Bill 1001]

AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY INTERSTATE COMPACT

AN ACT Relating to the audiology and speech-language pathology interstate compact; adding a new chapter to Title 18 RCW; and providing a contingent effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The purpose of this compact is to facilitate interstate practice of audiology and speech-language pathology with the goal of improving public access to audiology and speech-language pathology services.

The practice of audiology and speech-language pathology occurs in the state where the patient, client, or student is located at the time of the patient, client, or student encounter. The compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.

(2) This compact is designed to achieve the following objectives:

(a) Increase public access to audiology and speech-language pathology services by providing for the mutual recognition of other member state licenses;

(b) Enhance the states' ability to protect the public's health and safety;

(c) Encourage the cooperation of member states in regulating multistate audiology and speech-language pathology practice;

(d) Support spouses of relocating active duty military personnel;

(e) Enhance the exchange of licensure, investigative, and disciplinary information between member states;

(f) Allow a remote state to hold a provider of services with a compact privilege in that state accountable to that state's practice standards; and

(g) Allow for the use of telehealth technology to facilitate increased access to audiology and speech-language pathology services.

NEW SECTION. **Sec. 2.** As used in this compact, and except as otherwise provided, the following definitions shall apply:

(1) "Active duty military" means full-time duty status in the active uniformed service of the United States, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C., chapters 1209 and 1211.

(2) "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against an audiologist or speech-language pathologist, including actions against an individual's license or privilege to practice such as revocation, suspension, probation, monitoring of the licensee, or restriction on the licensee's practice.

(3) "Alternative program" means a nondisciplinary monitoring process approved by an audiology or speech-language pathology licensing board to address impaired practitioners.

(4) "Audiologist" means an individual who is licensed by a state to practice audiology.

(5) "Audiology" means the care and services provided by a licensed audiologist as set forth in the member state's statutes and rules.

(6) "Audiology and speech-language pathology compact commission" or"commission" means the national administrative body whose membership consists of all states that have enacted the compact.

(7) "Audiology and speech-language pathology licensing board," "audiology licensing board," "speech-language pathology licensing board," or "licensing board" means the agency of a state that is responsible for the licensing and regulation of audiologists, speech-language pathologists, or both.

(8) "Compact privilege" means the authorization granted by a remote state to allow a licensee from another member state to practice as an audiologist or speech-language pathologist in the remote state under its laws and rules. The practice of audiology or speech-language pathology occurs in the member state where the patient, client, or student is located at the time of the patient, client, or student encounter.

(9) "Current significant investigative information" means investigative information that a licensing board, after an inquiry or investigation that includes notification and an opportunity for the audiologist or speech-language pathologist to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction.

(10) "Data system" means a repository of information about licensees including, but not limited to, continuing education, examination, licensure, investigative, compact privilege, and adverse action.

(11) "Encumbered license" means a license in which an adverse action restricts the practice of audiology or speech-language pathology by the licensee and said adverse action has been reported to the national practitioners data bank.

(12) "Executive committee" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the commission.

(13) "Home state" means the member state that is the licensee's primary state of residence.

(14) "Impaired practitioner" means individuals whose professional practice is adversely affected by substance abuse, addiction, or other health-related conditions.

(15) "Licensee" means an individual who currently holds an authorization from the state licensing board to practice as an audiologist or speech-language pathologist.

(16) "Member state" means a state that has enacted the compact.

(17) "Privilege to practice" means a legal authorization permitting the practice of audiology or speech-language pathology in a remote state.

(18) "Remote state" means a member state other than the home state where a licensee is exercising or seeking to exercise the compact privilege.

(19) "Rule" means a regulation, principle, or directive promulgated by the commission that has the force of law.

(20) "Single-state license" means an audiology or speech-language pathology license issued by a member state that authorizes practice only within the issuing state and does not include a privilege to practice in any other member state.

(21) "Speech-language pathologist" means an individual who is licensed by a state to practice speech-language pathology.

(22) "Speech-language pathology" means the care and services provided by a licensed speech-language pathologist as set forth in the member state's statutes and rules.

(23) "State" means any state, commonwealth, district, or territory of the United States of America that regulates the practice of audiology and speech-language pathology.

(24) "State practice laws" means a member state's laws, rules, and regulations that govern the practice of audiology or speech-language pathology, define the scope of audiology or speech-language pathology practice, and create the methods and grounds for imposing discipline.

(25) "Telehealth" means the application of telecommunication, audio-visual, or other technologies that meet the applicable standard of care to deliver audiology or speech-language pathology services at a distance for assessment, intervention, or consultation.

NEW SECTION. **Sec. 3.** (1) A license issued to an audiologist or speech-language pathologist by a home state to a resident in that state shall be recognized by each member state as authorizing an audiologist or speech-language pathologist to practice audiology or speech-language pathology, under a privilege to practice, in each member state where the licensee obtains such a privilege.

(2) A state must implement or utilize procedures for considering the criminal history records of applicants for initial privilege to practice. These procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state's criminal records.

(a) A member state must fully implement a criminal background check requirement, within a time frame established by rule, by receiving the results of the federal bureau of investigation record search on criminal background checks and use the results in making licensure decisions.

(b) Communication between a member state, the commission, and among member states regarding the verification of eligibility for licensure through the compact shall not include any information received from the federal bureau of investigation relating to a federal criminal records check performed by a member state under Public Law 92-544.

(3) Upon application for a privilege to practice, the licensing board in the issuing remote state shall ascertain, through the data system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any encumbrances on any license or privilege to practice held by the applicant, whether any adverse action has been taken against any license or privilege to practice held by the applicant.

(4) Each member state shall require an applicant to obtain or retain a license in the home state and meet the home state's qualifications for licensure or renewal of licensure as well as all other applicable state laws.

(5) An audiologist must:

(a) Meet one of the following educational requirements:

(i) On or before December 31, 2007, have graduated with a master's degree or doctorate in audiology, or equivalent degree regardless of degree name, from a program that is accredited by an accrediting agency recognized by the council for higher education accreditation, or its successor, or by the United States department of education and operated by a college or university accredited by a regional or national accrediting organization recognized by the licensing board; or

(ii) On or after January 1, 2008, have graduated with a doctoral degree in audiology, or equivalent degree, regardless of degree name, from a program that is accredited by an accrediting agency recognized by the council for higher education accreditation, or its successor, or by the United States department of education and operated by a college or university accredited by a regional or national accrediting organization recognized by the licensing board; or

(iii) Have graduated from an audiology program that is housed in an institution of higher education outside of the United States (A) for which the program and institution have been approved by the authorized accrediting body in the applicable country and (B) the degree program has been verified by an

independent credentials review agency to be comparable to a state licensing board-approved program;

(b) Have completed a supervised clinical practicum experience from an accredited educational institution or its cooperating programs as required by the commission;

(c) Have successfully passed a national examination approved by the commission;

(d) Hold an active, unencumbered license;

(e) Have not been convicted or found guilty, and has not entered into an agreed disposition, of a felony related to the practice of audiology, under applicable state or federal criminal law; and

(f) Have a valid United States social security or national practitioner identification number.

(6) A speech-language pathologist must:

(a) Meet one of the following educational requirements:

(i) Have graduated with a master's degree from a speech-language pathology program that is accredited by an organization recognized by the United States department of education and operated by a college or university accredited by a regional or national accrediting organization recognized by the licensing board; or

(ii) Have graduated from a speech-language pathology program that is housed in an institution of higher education outside of the United States (A) for which the program and institution have been approved by the authorized accrediting body in the applicable country and (B) the degree program has been verified by an independent credentials review agency to be comparable to a state licensing board-approved program;

(b) Have completed a supervised clinical practicum experience from an educational institution or its cooperating programs as required by the commission;

(c) Have completed a supervised postgraduate professional experience as required by the commission;

(d) Have successfully passed a national examination approved by the commission;

(e) Hold an active, unencumbered license;

(f) Have not been convicted or found guilty, and has not entered into an agreed disposition, of a felony related to the practice of speech-language pathology, under applicable state or federal criminal law;

(g) Have a valid United States social security or national practitioner identification number.

(7) The privilege to practice is derived from the home state license.

(8) An audiologist or speech-language pathologist practicing in a member state must comply with the state practice laws of the state in which the client is located at the time service is provided. The practice of audiology and speech-language pathology shall include all audiology and speech-language pathology practice as defined by the state practice laws of the member state in which the client is located. The practice of audiology and speech-language pathology in a member state under a privilege to practice shall subject an audiologist or speech-language pathologist to the jurisdiction of the licensing board, the courts, and the

laws of the member state in which the client is located at the time service is provided.

(9) Individuals not residing in a member state shall continue to be able to apply for a member state's single-state license as provided under the laws of each member state. However, the single-state license granted to these individuals shall not be recognized as granting the privilege to practice audiology or speech-language pathology in any other member state. Nothing in this compact shall affect the requirements established by a member state for the issuance of a single-state license.

(10) Member states may charge a fee for granting a compact privilege.

(11) Member states must comply with the bylaws and rules and regulations of the commission.

NEW SECTION. **Sec. 4.** (1) To exercise the compact privilege under the terms and provisions of the compact, the audiologist or speech-language pathologist shall:

(a) Hold an active license in the home state;

(b) Have no encumbrance on any state license;

(c) Be eligible for a compact privilege in any member state in accordance with section 3 of this act;

(d) Have not had any adverse action against any license or compact privilege within the previous two years from the date of application;

(e) Notify the commission that the licensee is seeking the compact privilege within a remote state or states;

(f) Pay any applicable fees, including any state fee, for the compact privilege; and

(g) Report to the commission adverse action taken by any nonmember state within 30 days from the date the adverse action is taken.

(2) For the purposes of the compact privilege, an audiologist or speech-language pathologist shall only hold one home state license at a time.

(3) Except as provided in section 6 of this act, if an audiologist or speech-language pathologist changes primary state of residence by moving between two member states, the audiologist or speech-language pathologist must apply for licensure in the new home state, and the license issued by the prior home state shall be deactivated in accordance with applicable rules adopted by the commission.

(4) The audiologist or speech-language pathologist may apply for licensure in advance of a change in primary state of residence.

(5) A license shall not be issued by the new home state until the audiologist or speech-language pathologist provides satisfactory evidence of a change in primary state of residence to the new home state and satisfies all applicable requirements to obtain a license from the new home state.

(6) If an audiologist or speech-language pathologist changes primary state of residence by moving from a member state to a nonmember state, the license issued by the prior home state shall convert to a single-state license, valid only in the former home state and the privilege to practice in any member state shall be deactivated in accordance with rules promulgated by the commission.

(7) The compact privilege is valid until the expiration date of the home state license. The licensee must comply with the requirements of subsection (1) of this section to maintain the compact privilege in the remote state.

(8) A licensee providing audiology or speech-language pathology services in a remote state under the compact privilege shall function within the laws and regulations of the remote state.

(9) A licensee providing audiology or speech-language pathology services in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, remove a licensee's compact privilege in the remote state for a specific period of time, impose fines, or take any other necessary actions to protect the health and safety of its citizens.

(10) If a home state license is encumbered, the licensee shall lose the compact privilege in any remote state until the following occur:

(a) The home state license is no longer encumbered; and

(b) Two years have elapsed from the date of the adverse action.

(11) Once an encumbered license in the home state is restored to good standing, the licensee must meet the requirements of subsection (1) of this section to obtain a compact privilege in any remote state.

(12) Once the requirements of subsection (10) of this section have been met, the licensee must meet the requirements in subsection (1) of this section to obtain a compact privilege in a remote state.

NEW SECTION. **Sec. 5.** Member states shall recognize the right of an audiologist or speech-language pathologist, licensed by a home state in accordance with section 3 of this act and under rules promulgated by the commission, to practice audiology or speech-language pathology in any member state via telehealth under a privilege to practice as provided in the compact and rules promulgated by the commission. A licensee providing audiology or speech-language pathology services in a remote state under the compact privilege shall function within the laws and regulations of the state where the patient, client, or student is located.

NEW SECTION. **Sec. 6.** Active duty military personnel, or their spouse, shall designate a home state where the individual has a current license in good standing. The individual may retain the home state designation during the period the service member is on active duty. Subsequent to designating a home state, the individual shall only change their home state through application for licensure in the new state.

NEW SECTION. **Sec. 7.** (1) In addition to the other powers conferred by state law, a remote state shall have the authority, in accordance with existing state due process law, to:

(a) Take adverse action against an audiologist's or speech-language pathologist's privilege to practice within that member state;

(b) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing board in a member state for the attendance and testimony of witnesses or the production of evidence from another member state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in which the witnesses or evidence are located.

(2) Only the home state shall have the power to take adverse action against an audiologist's or speech-language pathologist's license issued by the home state.

(3) For purposes of taking adverse action, the home state shall give the same priority and effect to reported conduct received from a member state as it would if the conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.

(4) The home state shall complete any pending investigations of an audiologist or speech-language pathologist who changes primary state of residence during the course of the investigations. The home state shall also have the authority to take appropriate action and shall promptly report the conclusions of the investigations to the administrator of the data system. The administrator of the data system shall promptly notify the new home state of any adverse actions.

(5) If otherwise permitted by state law, the member state may recover from the affected audiologist or speech-language pathologist the costs of investigations and disposition of cases resulting from any adverse action taken against that audiologist or speech-language pathologist.

(6) The member state may take adverse action based on the factual findings of the remote state, provided that the member state follows the member state's own procedures for taking the adverse action.

(7)(a) In addition to the authority granted to a member state by its respective audiology or speech-language pathology practice act or other applicable state law, any member state may participate with other member states in joint investigations of licensees.

(b) Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the compact.

(8) If adverse action is taken by the home state against an audiologist's or speech-language pathologist's license, the audiologist's or speech-language pathologist's privilege to practice in all other member states shall be deactivated until all encumbrances have been removed from the state license. All home state disciplinary orders that impose adverse action against an audiologist's or speech-language pathologist's license shall include a statement that the audiologist's or speech-language pathologist's privilege to practice is deactivated in all member states during the pendency of the order.

(9) If a member state takes adverse action against a licensee, it shall promptly notify the administrator of the data system. The administrator of the data system shall promptly notify the home state and any remote states in which the licensee has a privilege to practice of any adverse actions by the home state or remote states.

(10) Nothing in this compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action.

NEW SECTION. **Sec. 8.** (1) The compact member states hereby create and establish a joint public agency known as the audiology and speech-language pathology compact commission:

(a) The commission is an instrumentality of the compact states.

(b) Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may

waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

(c) Nothing in this compact shall be construed to be a waiver of sovereign immunity.

(2)(a) Each member state shall have two delegates selected by that member state's licensing board. The delegates shall be current members of the licensing board. One shall be an audiologist and one shall be a speech-language pathologist.

(b) An additional five delegates, who are either a public member or board administrator from a state licensing board, shall be chosen by the executive committee from a pool of nominees provided by the commission at large.

(c) Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed.

(d) The member state licensing board shall fill any vacancy occurring on the commission, within 90 days.

(e) Each delegate shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission.

(f) A delegate shall vote in person or by other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

(g) The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

(3) The commission shall have the following powers and duties:

(a) Establish the fiscal year of the commission;

(b) Establish bylaws;

(c) Establish a code of ethics;

(d) Maintain its financial records in accordance with the bylaws;

(e) Meet and take actions as are consistent with the provisions of this compact and the bylaws;

(f) Promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules shall have the force and effect of law and shall be binding in all member states to the extent and in the manner provided for in the compact;

(g) Bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any state audiology or speech-language pathology licensing board to sue or be sued under applicable law shall not be affected;

(h) Purchase and maintain insurance and bonds;

(i) Borrow, accept, or contract for services of personnel including, but not limited to, employees of a member state;

(j) Hire employees, elect or appoint officers, fix compensation, define duties, grant individuals appropriate authority to carry out the purposes of the compact, and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

(k) Accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose

of the same; provided that at all times the commission shall avoid any appearance of impropriety and/or conflict of interest;

(l) Lease, purchase, accept appropriate gifts, or donations of, or otherwise to own, hold, improve, or use, any property, real, personal, or mixed; provided that at all times the commission shall avoid any appearance of impropriety;

(m) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

(n) Establish a budget and make expenditures;

(o) Borrow money;

(p) Appoint committees, including standing committees composed of members, and other interested persons as may be designated in this compact and the bylaws;

(q) Provide and receive information from, and cooperate with, law enforcement agencies;

(r) Establish and elect an executive committee; and

(s) Perform other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of audiology and speech-language pathology licensure and practice.

(4) The commission shall have no authority to change or modify the laws of the member state which define the practice of audiology and speech-language pathology in the respective states.

(5) The executive committee shall have the power to act on behalf of the commission within the powers of this compact.

(a)(i) The executive committee shall be composed of ten members:

(A) Seven voting members who are elected by the commission from the current membership of the commission;

(B) Two ex officios, consisting of one nonvoting member from a recognized national audiology professional association and one nonvoting member from a recognized national speech-language pathology association; and

(C) One ex officio, nonvoting member from the recognized membership organization of the audiology and speech-language pathology licensing boards.

(ii) The ex officio members shall be selected by their respective organizations.

(b) The commission may remove any member of the executive committee as provided in the bylaws.

(c) The executive committee shall meet at least annually.

(d) The executive committee shall have the following duties and responsibilities:

(i) Recommend to the entire commission changes to the rules or bylaws, changes to this compact legislation, fees paid by compact member states such as annual dues, and any commission compact fee charged to licensees for the compact privilege;

(ii) Ensure compact administration services are appropriately provided, contractual or otherwise;

(iii) Prepare and recommend the budget;

(iv) Maintain financial records on behalf of the commission;

(v) Monitor compact compliance of member states and provide compliance reports to the commission;

(vi) Establish additional committees as necessary; and

(vii) Other duties as provided in the rules or bylaws.

(6) All meetings of the commission or executive committee shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rule-making provisions in section 10 of this act.

(7) The commission or the executive committee or other committees of the commission may convene in a closed, nonpublic meeting if the commission or executive committee or other committees of the commission must discuss:

(a) Noncompliance of a member state with its obligations under the compact;

(b) The employment, compensation, discipline or other matters, practices, or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;

(c) Current, threatened, or reasonably anticipated litigation;

(d) Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

(e) Accusing any person of a crime or formally censuring any person;

(f) Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(g) Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(h) Disclosure of investigative records compiled for law enforcement purposes;

(i) Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact; or

(j) Matters specifically exempted from disclosure by federal or member state statute.

(8) If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

(9) The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in minutes. All minutes and documents other than those for closed meetings shall be made available to the public upon request and at the requesting person's expense. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

(10)(a) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(b) The commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

(c) The commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment

amount shall be allocated based upon a formula to be determined by the commission, which shall promulgate a rule binding upon all member states.

(11) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the commission pledge the credit of any of the member states, except by and with the authority of the member state.

(12) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the commission.

(13)(a) The members, officers, executive director, employees, and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing in this subsection (12)(a) shall be construed to protect any person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

(b) The commission shall defend any member, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

(c) The commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

NEW SECTION. **Sec. 9.** (1) The commission shall provide for the development, maintenance, and use of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in member states.

(2) Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all

individuals to whom this compact is applicable as required by the rules of the commission, including:

(a) Identifying information;

(b) Licensure data;

(c) Adverse actions against a license or compact privilege;

(d) Nonconfidential information related to alternative program participation;

(e) Any denial of application for licensure, and the reason or reasons for denial; and

(f) Other information that may facilitate the administration of this compact, as determined by the rules of the commission.

(3) Investigative information pertaining to a licensee in any member state shall only be available to other member states.

(4) The commission shall promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any member state shall be available to any other member state.

(5) Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.

(6) Any information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the data system.

NEW SECTION. **Sec. 10.** (1) The commission shall exercise its rule-making powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

(2) If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact within four years of the date of adoption of the rule, the rule shall have no further force and effect in any member state.

(3) Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

(4) Prior to promulgation and adoption of a final rule or rules by the commission, and at least 30 days in advance of the meeting at which the rule shall be considered and voted upon, the commission shall file a notice of proposed rule making:

(a) On the website of the commission or other publicly accessible platform; and

(b) On the website of each member state audiology or speech-language pathology licensing board or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.

(5) The notice of proposed rule making shall include:

(a) The proposed time, date, and location of the meeting in which the rule shall be considered and voted upon;

(b) The text of the proposed rule or amendment and the reason for the proposed rule;

(c) A request for comments on the proposed rule from any interested person; and

(d) The manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

(6) Prior to the adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

(7) The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

(a) At least 25 persons;

(b) A state or federal governmental subdivision or agency; or

(c) An association having at least 25 members.

(8) If a hearing is held on the proposed rule or amendment, the commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the commission shall publish the mechanism for access to the electronic hearing.

(a) All persons wishing to be heard at the hearing shall notify the executive director of the commission or other designated member in writing of their desire to appear and testify at the hearing not less than five business days before the scheduled date of the hearing.

(b) Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

(c) All hearings shall be recorded. A copy of the recording shall be made available to any person upon request and at the requesting person's expense.

(d) Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

(9) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

(10) If no written notice of intent to attend the public hearing by interested parties is received, the commission may proceed with promulgation of the proposed rule without a public hearing.

(11) The commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rule-making record and the full text of the rule.

(12) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rule-making procedures provided in the compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

(a) Meet an imminent threat to public health, safety, or welfare;

(b) Prevent a loss of commission or member state funds; or

(c) Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule.

(13) The commission or an authorized committee of the commission may direct revisions to a previously adopted rule or amendment for purposes of

correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the chair of the commission prior to the end of the notice period. If no challenge is made, the revision shall take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

NEW SECTION. **Sec. 11.** (1)(a) Upon request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states and between member and nonmember states.

(b) The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

(2)(a) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

(b) By majority vote, the commission may initiate legal action in the United States district court for the District of Columbia or the federal district where the commission has its principal offices against a member state in default to enforce compliance with the provisions of this compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of litigation, including reasonable attorneys' fees.

(c) The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

NEW SECTION. **Sec. 12.** (1) The compact shall come into effect on the date on which the compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, shall be limited to the powers granted to the commission relating to assembly and the promulgation of rules. Thereafter, the commission shall meet and exercise rule-making powers necessary to the implementation and administration of this compact.

(2) Any state that joins this compact subsequent to the commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which this compact becomes law in that state. Any rule that has been previously adopted by the commission shall have the full force and effect of law on the day the compact becomes law in that state.

(3) Any member state may withdraw from this compact by enacting a statute repealing the same.

(a) A member state's withdrawal shall not take effect until six months after enactment of the repealing statute.

(b) Withdrawal shall not affect the continuing requirement of the withdrawing state's audiology or speech-language pathology licensing board to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

(4) Nothing contained in this compact shall be construed to invalidate or prevent any audiology or speech-language pathology licensure agreement or

other cooperative arrangement between a member state and a nonmember state that does not conflict with the provisions of this compact.

(5) This compact may be amended by the member states. No amendment to this compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

NEW SECTION. **Sec. 13.** This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any member state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any member state, this compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

NEW SECTION. **Sec. 14.** (1) Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

(2) All laws in a member state in conflict with this compact are superseded to the extent of the conflict.

(3) All lawful actions of the commission, including all rules and bylaws promulgated by the commission, are binding upon the member states.

(4) All agreements between the commission and the member states are binding in accordance with their terms.

(5) In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, the provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

NEW SECTION. **Sec. 15.** To the extent necessary to implement this act, the board of hearing and speech is authorized to adopt rules necessary to implement the audiology and speech-language pathology interstate compact.

NEW SECTION. **Sec. 16.** Sections 1 through 15 of this act constitute a new chapter in Title 18 RCW.

Passed by the House February 8, 2023.
Passed by the Senate March 29, 2023.
Approved by the Governor April 13, 2023.
Filed in Office of Secretary of State April 13, 2023.

CHAPTER 54

[House Bill 1004]

BRIDGE JUMPING WARNING SIGNAGE

AN ACT Relating to installing signs on or near bridges to provide information to deter jumping; amending RCW 36.86.040, 47.36.030, and 81.36.100; adding a new section to chapter 35.21 RCW; adding a new section to chapter 47.04 RCW; adding a new section to chapter 47.36 RCW; adding a new section to chapter 53.08 RCW; adding a new section to chapter 77.12 RCW; adding a new section to chapter 79.10 RCW; adding a new section to chapter 79A.05 RCW; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** This act may be known and cited as "Zack's law."

NEW SECTION. **Sec. 2.** (1) The legislature intends state and local agencies to install signs on or near bridges to warn people of the dangers of diving or jumping off the bridge.

(2) This law is enacted at the request of family and friends of Zachary Lee Rager and the Chehalis community in the expectation that better information on bridges will prevent future deaths. On March 23, 2021, Zachary Lee Rager jumped off a bridge in a location he had jumped from many times before during the summer months. Unfortunately, the colder water and conditions were different earlier in the year, and he did not survive.

(3) The legislature finds that cold-water shock drowning can occur when the water temperature is below 70 degrees Fahrenheit. The temperature difference when a body is submerged in the colder water leads to involuntary gasping, inhalation of water, loss of mobility, and loss of consciousness. The ability to hold one's breath is substantially reduced to seconds rather than minutes. Many people may underestimate the conditions on a sunny and warm day, like Zachary Lee Rager did, and a sign that waters may still be too cold for swimming and facts about cold-water shock drowning could prevent future deaths.

(4) The legislature recognizes that state agencies and local governments currently may install informational signs pursuant to RCW 47.42.050. This act creates a pathway so that governments may work with individuals and communities to provide more signs with location appropriate information in the expectation that more information will prevent future deaths.

(5) Lastly, the legislature is directing state and local governments to consider installing informational signs about the hazards of diving or jumping under this act when they construct new bridges or replace existing infrastructure. The legislature recognizes that not every bridge will need such signs. The choice to install a sign is going to be specific to the location and an assessment of many different factors, including the size of the waterway, the height of the bridge, the communities' level of interest in having such signs, the physical layout of the bridge and surrounding terrain, the resources provided to pay for the bridge, and the likelihood of individuals to use that particular location to dive or jump.

NEW SECTION. **Sec. 3.** On or before January 1, 2024, the Washington state parks and recreation commission must install a sign in memory of Zachary Lee Rager on or near the bridge on the Willapa trail that crosses the Chehalis river near old highway 603 providing information about the hazards of cold-water shock related to diving or jumping off the bridge.

NEW SECTION. **Sec. 4.** A new section is added to chapter 35.21 RCW to read as follows:

(1)(a) The executive officer, or a designated employee, with control of operations and maintenance of a bridge of any city or town may authorize the erection of informational signs near or attached to bridges providing location-specific information about the hazards of jumping with the goal of preventing future deaths. These signs are meant to provide more information than just a "no jumping" sign so that people can better understand the hazards related to a particular location. Signs providing information on the hazards of cold-water shock that leads to drowning may be erected in locations where people might

otherwise think a location is safe for swimming. Signs may include the statewide 988 suicide prevention hotline.

(b) Any city or town responsible for the repair, replacement, and maintenance of bridges is encouraged to create a process where individuals may request the installation of an informational sign to address jumping off a bridge in locations that do not have such signs installed.

(c) Signs created under this section may not conflict with provisions of the manual on uniform traffic control devices or existing state laws related to placement and design of signs that are placed along transportation corridors.

(d) If a sign is to be located along a state highway or the interstate system, the department of transportation must approve the sign and location prior to erecting the sign, but no permit or fee is necessary.

(e) Cities and towns may accept gifts or donations to pay for the creation, installation, or maintenance of signs under this section.

(2) This section applies prospectively.

(3) This section does not create a private right of action by, or a legal duty to, any party, and may not be used to impose liability on the city or town if a sign has or has not been erected on its property. The state of Washington, including all of its agencies, subdivisions, employees, and agents, shall not be liable in tort for any violation of this act, notwithstanding any other provision of law.

Sec. 5. RCW 36.86.040 and 1984 c 7 s 40 are each amended to read as follows:

The county legislative authority shall erect and maintain upon the county roads such suitable and proper signs, signals, signboards, and guideposts and appropriate stop, caution, warning, restrictive, and directional signs and markings as it deems necessary or as may be required by law. This includes informational signs to address jumping from bridges as authorized in section 8 of this act. All such markings shall be in accordance with the uniform state standard of color, design, erection, and location adopted and designed by the Washington state department of transportation. In respect to existing and future railroad grade crossings over county roads the legislative authority shall install and maintain standard, nonmechanical railroad approach warning signs on both sides of the railroad upon the approaches of the county road. All such signs shall be located a sufficient distance from the crossing to give adequate warning to persons traveling on county roads.

NEW SECTION. **Sec. 6.** A new section is added to chapter 47.04 RCW to read as follows:

(1) Before entering into any contract for the construction of or replacement of any bridge, excluding bridges that are replacing culverts that are barriers to fish passage, the secretary, or a designated employee, must consider whether to require the installation of informational signs that address the hazards of diving or jumping off the bridge as part of the contract. These signs are meant to provide more information than just a "no jumping" sign so that people can better understand the hazards related to a particular location. Signs with information on the hazards of cold-water shock that leads to drowning are encouraged to be installed in locations where people might otherwise think a location is safe for swimming. Signs under this section may include the statewide 988 suicide prevention hotline.

(2) Signs created under this section for placement within the right-of-way of the state highway system may not conflict with provisions of the manual on uniform traffic control devices or existing state laws related to placement and design of signs that are placed along transportation corridors.

(3) This section does not create a private right of action by, or a legal duty to, any party, and may not be used to impose liability on the department if a sign has or has not been erected on its property. The state of Washington, including all of its agencies, subdivisions, employees, and agents, shall not be liable in tort for any violation of this act, notwithstanding any other provision of law.

Sec. 7. RCW 47.36.030 and 2005 c 398 s 1 are each amended to read as follows:

(1) The secretary of transportation shall have the power and it shall be its duty to adopt and designate a uniform state standard for the manufacture, display, erection, and location of all signs, signals, signboards, guideposts, and other traffic devices erected or to be erected upon the state highways of the state of Washington for the purpose of furnishing information to persons traveling upon such state highways regarding traffic regulations, directions, distances, points of danger, and conditions requiring caution, and for the purpose of imposing restrictions upon persons operating vehicles thereon. Such signs shall conform as nearly as practicable to the manual of specifications for the manufacture, display, and erection of uniform traffic control devices for streets and highways and all amendments, corrections, and additions thereto.

(2) The department of transportation shall prepare plans and specifications of the uniform state standard of traffic devices so adopted and designated, showing the materials, colors, and designs thereof, and shall upon the issuance of any such plans and specifications or revisions thereof and upon request, furnish to the boards of county commissioners and the governing body of any incorporated city or town, a copy thereof. Signs, signals, signboards, guideposts, and other traffic devices erected on county roads shall conform in all respects to the specifications of color, design, and location approved by the secretary. Traffic devices hereafter erected within incorporated cities and towns shall conform to such uniform state standard of traffic devices so far as is practicable. The uniform system must allow local transit authority bus shelters located within the right-of-way of the state highway system to display and maintain commercial advertisements subject to applicable federal regulations, if any.

(3) The uniform system adopted by the secretary under this section may allow signs, banners, or decorations over a highway that:

(a) Are in unincorporated areas;

(b) Are at least ((~~twenty~~)) 20 vertical feet above a highway; and

(c) Do not interfere with or obstruct the view of any traffic control device.

The department shall adopt rules regulating signs, banners, or decorations installed under this subsection (3).

(4) Cold water shock signs authorized in this act are subject to the provisions of this section.

NEW SECTION. **Sec. 8.** A new section is added to chapter 47.36 RCW to read as follows:

(1)(a) The executive officer, or a designated employee, with control of operations and maintenance of a bridge of any county, city, town, or state

agency, subject to approval by the department pursuant to (d) of this subsection, may erect informational signs near or attached to bridges providing location-specific information about the hazards of diving or jumping from the location with the goal of preventing future deaths. These signs are meant to provide more information than just a "no jumping" sign so that people can better understand the hazards related to a particular location. Signs providing information on the hazard of cold-water shock that leads to drowning may be erected in locations where people might otherwise think a location is safe for swimming. Signs may include the statewide 988 suicide prevention hotline.

(b) Any county, city, town, or state agency responsible for the repair, replacement, and maintenance of bridges are encouraged to create a process where individuals may request the installation of an informational sign pursuant to this section in locations that do not have such signs erected.

(c) Signs created under this section may not conflict with provisions of the manual on uniform traffic control devices or existing state laws related to placement and design of signs that are placed along transportation corridors.

(d) If a sign is to be located along a state highway or the interstate system, the department must approve the sign and location prior to erecting the sign, but no permit or fee is necessary.

(e) State and local government agencies are authorized to accept gifts or donations to pay for the erection of signs under this section.

(2) This section applies prospectively.

(3) This section does not create a private right of action by, or a legal duty to, any party, and may not be used to impose liability on the owner of a government facility if a sign has or has not been erected on its property. The state of Washington, including all of its agencies, subdivisions, employees, and agents, shall not be liable in tort for any violation of this act, notwithstanding any other provision of law.

NEW SECTION. **Sec. 9.** A new section is added to chapter 53.08 RCW to read as follows:

(1) Before entering into any contract for the construction of or replacement of any bridge on port controlled land, the port's executive officer must consider whether to require the installation of informational signs that address the hazards of diving or jumping off the bridge as part of the contract. These signs are meant to provide more information than just a "no jumping" sign so that people can better understand the hazards related to a particular location. Signs with information on the hazard of cold-water shock that leads to drowning are encouraged to be installed in locations where people might otherwise think a location is safe for swimming. Signs under this section may include the statewide 988 suicide prevention hotline.

(2) Signs created under this section for placement within the right-of-way of the state highway system may not conflict with provisions of the manual on uniform traffic control devices or existing state laws related to placement and design of signs that are placed along transportation corridors.

(3) This section does not create a private right of action by, or a legal duty to, any party, and may not be used to impose liability on the port if a sign has or has not been erected on its property. The state of Washington, including all of its agencies, subdivisions, employees, and agents, shall not be liable in tort for any violation of this act, notwithstanding any other provision of law.

NEW SECTION. **Sec. 10.** A new section is added to chapter 77.12 RCW to read as follows:

(1) Before entering into any contract for the construction of or replacement of any bridge on department controlled land, the director must consider whether to require the installation of informational signs that address the hazards of diving or jumping off the bridge as part of the contract. These signs are meant to provide more information than just a "no jumping" sign so that people can better understand the hazards related to a particular location. Signs with information on the hazard of cold-water shock that leads to drowning are encouraged to be installed in locations where people might otherwise think a location is safe for swimming. Signs under this section may include the statewide 988 suicide prevention hotline.

(2) Signs created under this section for placement within the right-of-way of the state highway system may not conflict with provisions of the manual on uniform traffic control devices or existing state laws related to placement and design of signs that are placed along transportation corridors.

(3) This section does not create a private right of action by, or a legal duty to, any party, and may not be used to impose liability on the department if a sign has or has not been erected on its property. The state of Washington, including all of its agencies, subdivisions, employees, and agents, shall not be liable in tort for any violation of this act, notwithstanding any other provision of law.

NEW SECTION. **Sec. 11.** A new section is added to chapter 79.10 RCW to read as follows:

(1) Before entering into any contract for the construction of or replacement of any bridge on department controlled land, the commissioner must consider whether to require the installation of informational signs that address the hazard of diving or jumping off the bridge as part of the contract. These signs are meant to provide more information than just a "no jumping" sign so that people can better understand the hazards related to a particular location. Signs with information on the hazard of cold-water shock that leads to drowning are encouraged to be installed in locations where people might otherwise think a location is safe for swimming. Signs under this section may include the statewide 988 suicide prevention hotline.

(2) Signs created under this section for placement within the right-of-way of the state highway system may not conflict with provisions of the manual on uniform traffic control devices or existing state laws related to placement and design of signs that are placed along transportation corridors.

(3) This section does not create a private right of action by, or a legal duty to, any party, and may not be used to impose liability on the department if a sign has or has not been erected on its property. The state of Washington, including all of its agencies, subdivisions, employees, and agents, shall not be liable in tort for any violation of this act, notwithstanding any other provision of law.

NEW SECTION. **Sec. 12.** A new section is added to chapter 79A.05 RCW to read as follows:

(1) Before entering into any contract for the construction of or replacement of any bridge on land controlled by the commission, the director must consider whether to require the installation of informational signs that address the hazards of diving or jumping off the bridge as part of the contract. These signs are meant

to provide more information than just a "no jumping" sign so that people can better understand the hazards related to a particular location. Signs with information on the hazard of cold-water shock that leads to drowning are encouraged to be installed in locations where people might otherwise think a location is safe for swimming. Signs under this section may include the statewide 988 suicide prevention hotline.

(2) Signs created under this section for placement within the right-of-way of the state highway system may not conflict with provisions of the manual on uniform traffic control devices or existing state laws related to placement and design of signs that are placed along transportation corridors.

(3) This section does not create a private right of action by, or a legal duty to, any party, and may not be used to impose liability on the commission if a sign has or has not been erected on its property. The state of Washington, including all of its agencies, subdivisions, employees, and agents, shall not be liable in tort for any violation of this act, notwithstanding any other provision of law.

Sec. 13. RCW 81.36.100 and 1961 c 14 s 81.36.100 are each amended to read as follows:

(1) Any railroad corporation heretofore duly incorporated and organized under the laws of this state or of the territory of Washington, or which may hereafter be duly incorporated and organized under the laws of this state, or heretofore or hereafter incorporated and organized under the laws of any other state or territory of the United States, and authorized to do business in this state and to construct and operate railroads therein, shall have and hereby is given the right to construct bridges across the navigable streams within this state over which the projected line or lines of railway of said railroad corporations will run: PROVIDED, That said bridges are constructed in good faith for the purpose of being made a part of the constructed line of said railroad: AND PROVIDED, That they shall be constructed in the course of the construction of said railroad or thereafter for the more convenient operation thereof: AND PROVIDED FURTHER, That such bridges shall be so constructed as not to interfere with, impede or obstruct the navigation of such streams.

(2)(a) Before entering into any contract for the construction of or replacement of any bridge by the state or its subdivisions as a property owner, the executive officer responsible for the contract must consider whether to require the installation of informational signs that address the hazard of diving or jumping off the bridge as part of the contract. These signs are meant to provide more information than just a "no jumping" sign so that people can better understand the hazards related to a particular location. Signs with information on the hazard of cold-water shock that leads to drowning are encouraged to be installed in locations where people might otherwise think a location is safe for swimming. Signs under this section may include the statewide 988 suicide prevention hotline.

(b) This section does not create a private right of action by, or a legal duty to, any party, and may not be used to impose liability on the property owner if a sign has or has not been erected on its property. The state of Washington, including all of its agencies, subdivisions, employees, and agents, shall not be liable in tort for any violation of this act, notwithstanding any other provision of law.

Passed by the House March 7, 2023.
Passed by the Senate March 31, 2023.
Approved by the Governor April 13, 2023.
Filed in Office of Secretary of State April 13, 2023.

CHAPTER 55

[House Bill 1017]

COSMETOLOGISTS, HAIR DESIGNERS, BARBERS, MANICURISTS, AND ESTHETICIANS—EXAMINATIONS

AN ACT Relating to expediting licensure for cosmetologists, hair designers, barbers, manicurists, and estheticians; and amending RCW 18.16.090.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 18.16.090 and 2003 c 400 s 4 are each amended to read as follows:

Examinations for licensure under this chapter shall be conducted at such times and places as the director determines appropriate. Examinations shall consist of tests designed to reasonably measure the applicant's knowledge of safe and sanitary practices and may also include the applicant's knowledge of this chapter and rules adopted pursuant to this chapter. The director may establish by rule a performance examination in addition to any other examination. The director shall establish by rule the minimum passing score for all examinations and the requirements for reexamination of applicants who fail the examination or examinations. The director may allow an independent person to conduct the examinations at the expense of the applicants.

The director shall take steps to ensure that after completion of the required course or apprenticeship program, applicants may promptly take the examination and receive the results of the examination. <u>The director may allow an applicant to register for or take an examination before the applicant has completed the required hours of course instruction, if the applicant is within 100 hours of completion, but the applicant must complete the required hours of course instruction before licensure.</u>

Passed by the House January 25, 2023.
Passed by the Senate March 31, 2023.
Approved by the Governor April 13, 2023.
Filed in Office of Secretary of State April 13, 2023.

CHAPTER 56

[Engrossed Substitute House Bill 1048]

VOTING RIGHTS ACT—VARIOUS PROVISIONS

AN ACT Relating to enhancing the Washington voting rights act; amending RCW 29A.92.010, 29A.92.030, 29A.92.040, 29A.92.060, 29A.92.090, 29A.92.110, 29A.92.070, 29A.92.080, 29A.92.130, and 36.32.020; adding new sections to chapter 29A.92 RCW; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

<u>NEW SECTION.</u> **Sec. 1.** A new section is added to chapter 29A.92 RCW to read as follows:

In further recognition of the protections for the right to vote provided by the Constitution of the state of Washington, statutes, rules and regulations, and local laws, town charters, and ordinances related to the right to vote shall be construed liberally in favor of:

(1) Protecting the right to cast an effective ballot;

(2) Ensuring that eligible voters are not impaired in registering to vote or voting including having their votes counted; and

(3) Ensuring that voters of race, color, and language minority groups have equitable access to fully participate in the electoral process in registering to vote and voting free from improper dilution or abridgement of voting power.

Sec. 2. RCW 29A.92.010 and 2018 c 113 s 103 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise. In applying these definitions and other terms in this chapter, courts may rely on relevant federal case law for guidance.

(1) "At large election" means any of the following methods of electing members of the governing body of a political subdivision:

(a) One in which the voters of the entire jurisdiction elect the members to the governing body;

(b) One in which the candidates are required to reside within given areas of the jurisdiction and the voters of the entire jurisdiction elect the members to the governing body; or

(c) One that combines the criteria in (a) and (b) of this subsection or one that combines at large with district-based elections.

(2) "Cohesive" means that members of a group tend to prefer the same candidates or other electoral choices.

(3) "District-based elections" means a method of electing members to the governing body of a political subdivision in which the candidate must reside within an election district that is a divisible part of the political subdivision and is elected only by voters residing within that election district.

(((~~(3)~~))) (4) "Polarized voting" means voting in which there is a difference((~~, as defined in case law regarding enforcement of the federal voting rights act, 52 U.S.C. 10301 et seq.,~~)) in the choice of candidates or other electoral choices that are preferred by voters in a protected class or a coalition of protected classes, and in the choice of candidates and electoral choices that are preferred by voters in the rest of the electorate.

(((~~(4)~~))) (5) "Political subdivision" means any county, city, town, school district, fire protection district, port district, or public utility district, but does not include the state.

(((~~(5)~~))) (6) "Protected class" means a class of voters who are members of a race, color, or language minority group in the state of Washington, as this class is referenced and defined in the federal voting rights act, 52 U.S.C. 10301 et seq.

Sec. 3. RCW 29A.92.030 and 2019 c 64 s 7 are each amended to read as follows:

(1) A political subdivision is in violation of this chapter when it is shown that:

(a) Elections in the political subdivision exhibit polarized voting; and

(b) Members of a protected class or classes do not have an equal opportunity to elect candidates of their choice as a result of the dilution or abridgment of the rights of members of that protected class or classes.

(2) ((~~The fact that members of a protected class are not geographically compact or concentrated to constitute a majority in a proposed or existing district-based election district shall not preclude a finding of a violation under this chapter, but may be a factor in determining a remedy. The equal opportunity to elect shall be assessed pragmatically, based on local election conditions, and may include crossover districts.~~

~~(3)~~)) In determining whether there is polarized voting under this chapter, the court shall analyze election results including, but not limited to, elections of the governing body of the political subdivision, ballot measure elections, elections in which at least one candidate is a member of a protected class, and other electoral choices that affect the rights and privileges of members of a protected class. The court is not required to consider explanations, including partisanship, for why polarized voting under this chapter exists in the political subdivision to determine whether polarized voting under this chapter exists in the political subdivision. Elections conducted prior to the filing of an action pursuant to this chapter are more probative to establish the existence of ((~~racially~~)) polarized voting than elections conducted after the filing of an action.

(((~~(4)~~))) (3) The election of candidates who are members of a protected class and who were elected prior to the filing of an action pursuant to this chapter shall not preclude a finding of polarized voting that results in an unequal opportunity for a protected class to elect candidates of their choice.

(4) The equal opportunity to elect shall be assessed pragmatically, based on local election conditions, and may include crossover districts. No single factor is dispositive or necessary to establish a violation of this section.

(5) The fact that members of a protected class are not geographically compact or concentrated to constitute a majority in a proposed or existing district-based election district shall not preclude a finding of a violation under this chapter, but may be a factor in determining a remedy.

(6) Proof of intent on the part of the voters or elected officials to discriminate against a protected class is not required for a cause of action to be sustained.

(((~~(6)~~))) (7) Other factors such as the history of discrimination, the use of electoral devices or other voting practices or procedures that may enhance the dilutive effects of at large elections, denial of access to those processes determining which groups of candidates will receive financial or other support in a given election, the extent to which members of a protected class bear the effects of past discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process, and the use of overt or subtle racial appeals in political campaigns are probative, but not necessary factors, to establish a violation of this chapter.

(8) A class of people protected by this section may include a coalition of members of different racial, color, or language minority groups. A coalition of members of different protected classes is not required to demonstrate that each individual racial, color, or language minority group which comprises the coalition is cohesive, only that the coalition as a whole is cohesive.

Sec. 4. RCW 29A.92.040 and 2018 c 113 s 201 are each amended to read as follows:

(1) A political subdivision that conducts an election pursuant to state, county, or local law, is authorized to change its electoral system, including, but not limited to, implementing a district-based election system, or increasing the number of elected officials on a county commission as authorized by section 12 of this act, to remedy a potential violation of RCW 29A.92.020.

(2) If a political subdivision invokes its authority under this section to implement a district-based election system, the districts shall be drawn in a manner consistent with RCW 29A.92.050.

Sec. 5. RCW 29A.92.060 and 2019 c 64 s 9 are each amended to read as follows:

(1) A voter who resides in the political subdivision, an organization whose roster of members and volunteers includes a voter who resides in the political subdivision, or a tribe located at least in part in the political subdivision who intends to challenge a political subdivision's electoral system under this chapter shall first notify the political subdivision. The political subdivision shall promptly make such notice public.

(2) The notice provided shall identify and provide contact information for the person or persons who intend to file an action, and shall identify the protected class or classes whose members do not have an equal opportunity to elect candidates of their choice or an equal opportunity to influence the outcome of an election because of alleged vote dilution and polarized voting. The notice shall also include a type of remedy the person believes may address the alleged violation of RCW 29A.92.030.

Sec. 6. RCW 29A.92.090 and 2019 c 64 s 12 are each amended to read as follows:

(1) After exhaustion of the time period in RCW 29A.92.080, any voter who resides in a political subdivision, organization whose roster of members and volunteers includes a voter who resides in the political subdivision, or tribe located at least in part in the political subdivision where a violation of RCW 29A.92.020 is alleged may file an action in the superior court of the county in which the political subdivision is located. If the action is against a county, the action may be filed in the superior court of such county, or in the superior court of either of the two nearest judicial districts as determined pursuant to RCW 36.01.050(2). An action filed pursuant to this chapter does not need to be filed as a class action.

(2) ((~~Members~~)) A coalition of members of different protected classes may file an action jointly pursuant to this chapter if they demonstrate that the combined voting preferences of the multiple protected classes are polarized against the rest of the electorate. A coalition of members of different protected classes is not required to demonstrate that each individual racial, color, or language minority group which comprises the coalition is cohesive.

(3) Nothing in this section shall be interpreted to relieve a party of the requirement to establish standing as provided in Washington case law when commencing an action under this title.

Sec. 7. RCW 29A.92.110 and 2019 c 454 s 2 are each amended to read as follows:

(1) ((~~The~~)) After finding a violation of RCW 29A.92.020 or upon stipulation of the parties, the court may order appropriate remedies including, but not limited to, the imposition of a district-based election system or expansion of the number of elected county commissioners if authorized by section 12 of this act. ((~~The court may order the affected jurisdiction to draw or redraw district boundaries or appoint an individual or panel to draw or redraw district lines. The proposed districts must be approved by the court prior to their implementation.~~)) In tailoring a remedy, the court shall consider proposed remedies by the parties and may not give deference to a proposed remedy only because it is proposed by the political subdivision. The court may not approve a remedy that violates this chapter.

(2) If the court orders a district-based remedy, the court must approve proposed district boundaries prior to their implementation. The court must determine that the proposed district boundaries will not violate this chapter.

(3) Implementation of a district-based remedy is not precluded by the fact that members of a protected class do not constitute a numerical majority within a proposed district-based election district. If, in tailoring a remedy, the court orders the implementation of a district-based election district where the members of the protected class are not a numerical majority, the court shall do so in a manner that provides the protected class an equal opportunity to elect candidates of their choice. The court may also approve a district-based election system that provides the protected class the opportunity to join in a coalition of two or more protected classes to elect candidates of their choice if there is demonstrated political cohesion among the protected classes.

(((~~(3)~~))) (4) In tailoring a remedy after a finding of a violation of RCW 29A.92.020 or upon stipulation of the parties:

(a) If the court's order providing a remedy or approving proposed districts, whichever is later, is issued during the period of time between the first Tuesday after the first Monday of November and on or before January 15th of the following year, the court shall order new elections, conducted pursuant to the remedy, to occur at the next succeeding general election. If a special filing period is required, filings for that office shall be reopened for a period of three business days, such three-day period to be fixed by the filing officer.

(b) If the court's order providing a remedy or approving proposed districts, whichever is later, is issued during the period of time between January 16th and on or before the first Monday of November, the next election will occur as scheduled and organized under the current electoral system, but the court shall order new elections to occur pursuant to the remedy at the general election the following calendar year.

(c) The remedy may provide for the political subdivision to hold elections for the members of its governing body at the same time as regularly scheduled elections for statewide or federal offices. All positions on the governing body must stand for election at the next election for the governing body, scheduled pursuant to this subsection (((~~(3)~~))) (4). The governing body may subsequently choose to stagger the terms of its positions.

(((~~(4)~~))) (5) Within thirty days of the conclusion of any action filed under RCW 29A.92.100, the political subdivision must publish on the subdivision's website, the outcome and summary of the action, as well as the legal costs

incurred by the subdivision. If the political subdivision does not have its own website, then it may publish on the county website.

Sec. 8. RCW 29A.92.070 and 2019 c 64 s 10 are each amended to read as follows:

(1) The political subdivision shall work in good faith with the person, organization, or tribe providing the notice to implement a remedy that provides the protected class or classes identified in the notice an equal opportunity to elect candidates of their choice. Such work in good faith to implement a remedy may include, but is not limited to consideration of: (a) Relevant electoral data; (b) relevant demographic data, including the most recent census data available; and (c) any other information that would be relevant to implementing a remedy.

(2) If the political subdivision adopts a remedy that takes the notice into account, or adopts the notice's proposed remedy, the political subdivision shall seek a court order acknowledging that the political subdivision's remedy complies with RCW 29A.92.020 and was prompted by a plausible violation. The person who submitted the notice may support or oppose such an order, and may obtain public records to do so. The political subdivision must provide all political, census, and demographic data and any analysis of that data used to develop the remedy in its filings seeking the court order and with any documents made public. All facts and reasonable inferences shall be viewed in the light most favorable to those opposing the political subdivision's proposed remedy at this stage. There shall be a rebuttable presumption that the court will decline to approve the political subdivision's proposed remedy at this stage.

(3) If the court concludes that the political subdivision's remedy complies with RCW 29A.92.020, an action under this chapter may not be brought against that political subdivision for four years by any party so long as the political subdivision does not enact a change to or deviation from the remedy during this four-year period that would otherwise give rise to an action under this chapter.

(4) In agreeing to adopt the person's, organization's, or tribe's proposed remedy, the political subdivision may do so by stipulation, which shall become a public document.

(5)(a) If the court issues an order under subsection (2) of this section, the person, organization, or tribe who sent the notice may make a demand to the political subdivision for reimbursement of the costs incurred in conducting the research necessary to send the notice. A demand made under this subsection must:

(i) Be in writing;

(ii) Be received by the political subdivision within 30 days of the adoption of the new electoral system; and

(iii) Include financial documentation, such as a detailed invoice for demographic services, that supports the demand. The political subdivision may request additional documentation if the documentation provided is insufficient for the political subdivision to corroborate the claimed costs.

(b) The political subdivision shall, within 60 days of receiving the demand, reimburse the reasonable costs of the person, organization, or tribe who sent the notice, not to exceed $50,000.

Sec. 9. RCW 29A.92.080 and 2019 c 64 s 11 are each amended to read as follows:

(1) Any voter who resides in the political subdivision, organization whose roster of members and volunteers includes a voter who resides in the political subdivision, or tribe located at least in part in the political subdivision may file an action under this chapter if, ((~~one hundred eighty~~)) 90 days after a political subdivision receives notice of a challenge to its electoral system under RCW 29A.92.060, the political subdivision has not obtained a court order stating that it has adopted a remedy in compliance with RCW 29A.92.020. ((~~However, if notice is received after July 1, 2021, then the political subdivision shall have ninety days to obtain a court order before an action may be filed.~~))

(2) If a political subdivision has received two or more notices containing materially different proposed remedies, the political subdivision shall work in good faith with the persons to implement a remedy that provides the protected class or classes identified in the notices an equal opportunity to elect candidates of their choice. If the political subdivision adopts one of the remedies offered, or a different remedy that takes multiple notices into account, the political subdivision shall seek a court order acknowledging that the political subdivision's remedy is reasonably necessary to avoid a violation of RCW 29A.92.020. The persons, organizations, or tribes who submitted the notice may support or oppose such an order, and may obtain public records to do so. The political subdivision must provide all political, census, and demographic data and any analysis of that data used to develop the remedy in its filings seeking the court order and with any documents made public. All facts and reasonable inferences shall be viewed in the light most favorable to those opposing the political subdivision's proposed remedy at this stage. There shall be a rebuttable presumption that the court will decline to approve the political subdivision's proposed remedy at this stage.

(3) If the court concludes that the political subdivision's remedy complies with RCW 29A.92.020, an action under this chapter may not be brought against that political subdivision for four years by any party so long as the political subdivision does not enact a change to or deviation from the remedy during this four-year period that would otherwise give rise to an action under this chapter.

(4)(a) If the court issues an order under subsection (2) of this section, the persons, organizations, or tribes who sent notices may make a demand to the political subdivision for reimbursement of the costs incurred in conducting the research necessary to send the notices. A demand made under this subsection must:

(i) Be in writing;

(ii) Be received by the political subdivision within 30 days of the adoption of the new electoral system; and

(iii) Include financial documentation, such as a detailed invoice for demographic services, that supports the demand. The political subdivision may request additional documentation if the documentation provided is insufficient for the political subdivision to corroborate the claimed costs.

(b) The political subdivision shall, within 60 days of receiving the demand, reimburse the reasonable costs of the persons, organizations, or tribes who sent the notices, not to exceed $50,000.

Sec. 10. RCW 29A.92.130 and 2018 c 113 s 405 are each amended to read as follows:

(1) In any action to enforce this chapter, the court may allow the prevailing plaintiff or plaintiffs, other than the state or political subdivision thereof, reasonable attorneys' fees, all nonattorney fee costs as defined by RCW 4.84.010, and all reasonable expert witness fees, including all such reasonable fees and costs incurred before filing the action. ((~~No fees or costs may be awarded if no action is filed.~~))

(2)(a) A prevailing plaintiff does not need to achieve relief or favorable judgment if the plaintiff demonstrates that they succeeded in altering the political subdivision's behavior to correct a claimed harm.

(b) For purposes of this section, "altering the political subdivision's behavior" includes, but is not limited to, adopting a new method of electing a governing body, modifying district boundaries, or amending a voting rule or qualification.

(3) Prevailing defendants may recover an award of fees or costs pursuant to RCW 4.84.185.

Sec. 11. RCW 36.32.020 and 2018 c 113 s 204 are each amended to read as follows:

The board of county commissioners of each county shall divide their county into three commissioner districts so that each district shall comprise as nearly as possible one-third of the population of the county: PROVIDED, That the territory comprised in any voting precincts of such districts shall remain compact, and shall not be divided by the lines of said districts.

However, the commissioners of any county composed entirely of islands and with a population of less than thirty-five thousand may divide their county into three commissioner districts without regard to population, except that if any single island is included in more than one district, the districts on such island shall comprise, as nearly as possible, equal populations.

The commissioners of any county may authorize a change to their electoral system pursuant to RCW 29A.92.040. Except where necessary to comply with a court order issued pursuant to RCW 29A.92.110, and except in the case of an intervening census, the lines of the districts shall not be changed more often than once in four years and only when a full board of commissioners is present. ((~~The~~)) Except when authorized under section 12 of this act, the districts shall be designated as districts numbered one, two, and three.

NEW SECTION. **Sec. 12.** A new section is added to chapter 29A.92 RCW to read as follows:

(1) A county may reasonably increase the number of elected commissioners to remedy a potential violation of RCW 29A.92.020 if the protected class or one of the protected classes subject to alleged vote dilution is Indian tribal status.

(2) After finding a violation of RCW 29A.92.020 or upon stipulation of the parties, the court may order a reasonable increase in the number of elected officials on a county commission if the defendant political subdivision is a county and the protected class or one of the protected classes subject to alleged vote dilution is Indian tribal status.

NEW SECTION. **Sec. 13.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 14.** This act takes effect January 1, 2024.

Passed by the House March 4, 2023.
Passed by the Senate April 5, 2023.
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Filed in Office of Secretary of State April 13, 2023.

CHAPTER 57

[House Bill 1058]

COMMERCIAL DRIVER'S LICENSES—APPLICATIONS

AN ACT Relating to streamlining the licensing process for a commercial driver's license by allowing the department to waive requirements for applicants that previously surrendered the license, allowing the license to be renewed online, and modifying the license test fees; amending RCW 46.25.088 and 46.25.060; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 46.25.088 and 2013 c 224 s 11 are each amended to read as follows:

(1) A CDL expires in the same manner as provided in RCW 46.20.181.

(2) When applying for renewal of a CDL, the applicant must:

(a) Complete the application form required under RCW 46.25.070(1), providing updated information and required certifications, and meet all the requirements of RCW 46.25.070 and 49 C.F.R. Sec. 383.71; and

(b) ((~~Submit the application to the department in person; and~~

~~(c)~~)) If the applicant wishes to retain a hazardous materials endorsement, take and pass the written test for a hazardous materials endorsement.

Sec. 2. RCW 46.25.060 and 2021 c 317 s 23 are each amended to read as follows:

(1)(a) No person may be issued a commercial driver's license unless that person:

(i) Is a resident of this state;

(ii) Has successfully completed a course of instruction in the operation of a commercial motor vehicle that has been approved by the director or has been certified by an employer as having the skills and training necessary to operate a commercial motor vehicle safely;

(iii) If he or she does not hold a valid commercial driver's license of the appropriate classification, has been issued a commercial learner's permit under RCW 46.25.052; and

(iv) Has passed a knowledge and skills examination for driving a commercial motor vehicle that complies with minimum federal standards established by federal regulation enumerated in 49 C.F.R. Part 383, subparts F, G, and H, in addition to other requirements imposed by state law or federal regulation. The department may not allow the person to take the skills examination during the first ((~~fourteen~~)) 14 days after initial issuance of the person's commercial learner's permit. The examinations must be prescribed and conducted by the department.

(b) In addition to the fee charged for issuance or renewal of any license, the applicant shall pay a fee of no more than ((~~ten dollars~~)) $10 until June 30, 2016, and ((~~thirty-five dollars~~)) $35 beginning July 1, 2016, for the classified knowledge examination, classified endorsement knowledge examination, or any combination of classified license and endorsement knowledge examinations.

((~~The~~)) Before January 1, 2024, the applicant shall pay a fee of no more than ((~~one hundred dollars until June 30, 2016, and two hundred fifty dollars beginning July 1, 2016, for each~~)) $250 for up to two classified skill ((~~examination~~)) examinations or combination of classified skill examinations conducted by the department. Beginning January 1, 2024, the applicant shall pay a fee of no more than $175 for each examination.

(c) The department may authorize a person, including an agency of this or another state, an employer, a private driver training facility, or other private institution, or a department, agency, or instrumentality of local government, to administer the skills examination specified by this section under the following conditions:

(i) The examination is the same which would otherwise be administered by the state;

(ii) The third party has entered into an agreement with the state that complies with the requirements of 49 C.F.R. Sec. 383.75; and

(iii) The director has adopted rules as to the third party testing program and the development and justification for fees charged by any third party.

(d) ((~~If the applicant's primary use of a commercial driver's license is for any of the following, then the applicant shall pay a fee of no more than seventy-five dollars until June 30, 2016, and two hundred twenty-five dollars beginning July 1, 2016, for the classified skill examination or combination of classified skill examinations whether conducted by the department or a third-party tester:~~

~~(i) Public benefit not-for-profit corporations that are federally supported head start programs; or~~

~~(ii) Public benefit not-for-profit corporations that support early childhood education and assistance programs as described in RCW 43.216.505.~~

~~(e)~~)) Beginning July 1, 2016, if the applicant's primary use of a commercial driver's license is to drive a school bus, the applicant shall pay a fee of no more than ((~~one hundred dollars~~)) $100 for the classified skill examination or combination of classified skill examinations conducted by the department.

(((~~f) Beginning July 1, 2016, payment of the examination fees under this subsection~~)) (e) Before January 1, 2024, payment of the classified skill examination fee only entitles an applicant to take the classified skill examination up to two times in order to pass. Beginning January 1, 2024, payment of the examination fee entitles an applicant to take a classified skill examination once, except a test taken under (d) of this subsection, which entitles the applicant to take the classified skill examination up to two times in order to pass.

(2)(a) The department may waive all or part of the commercial driver's license or commercial learner's permit qualification standards for applicants who previously have voluntarily surrendered a commercial driver's license.

(b) The department may waive the skills examination and the requirement for completion of a course of instruction in the operation of a commercial motor vehicle specified in this section for a commercial driver's license applicant who meets the requirements of 49 C.F.R. Sec. 383.77. For current or former military service members that meet the requirements of 49 C.F.R. Sec. 383.77, the department may also waive the requirements for a knowledge test for commercial driver's license applicants. Beginning December 1, 2021, the department shall provide an annual report to the house and senate transportation committees and the joint committee on veterans' and military affairs of the

legislature on the number and types of waivers granted pursuant to this subsection.

(((~~(b)~~))) (c) An applicant who operates a commercial motor vehicle for agribusiness purposes is exempt from the course of instruction completion and employer skills and training certification requirements under this section. By January 1, 2010, the department shall submit recommendations regarding the continuance of this exemption to the transportation committees of the legislature. For purposes of this subsection (2)(((~~(b)~~))) (c), "agribusiness" means a private carrier who in the normal course of business primarily transports:

(i) Farm machinery, farm equipment, implements of husbandry, farm supplies, and materials used in farming;

(ii) Agricultural inputs, such as seed, feed, fertilizer, and crop protection products;

(iii) Unprocessed agricultural commodities, as defined in RCW 17.21.020, where such commodities are produced by farmers, ranchers, vineyardists, or orchardists; or

(iv) Any combination of (((~~(b)~~))) (c)(i) through (iii) of this subsection.

The department shall notify the transportation committees of the legislature if the federal government takes action affecting the exemption provided in this subsection (2)(((~~(b)~~))) (c).

(3) A commercial driver's license or commercial learner's permit may not be issued to a person while the person is subject to a disqualification from driving a commercial motor vehicle, or while the person's driver's license is suspended, revoked, or canceled in any state, nor may a commercial driver's license be issued to a person who has a commercial driver's license issued by any other state unless the person first surrenders all such licenses, which must be returned to the issuing state for cancellation.

(4) The fees under this section must be deposited into the highway safety fund unless prior to July 1, 2023, the actions described in (a) or (b) of this subsection occur, in which case the portion of the revenue that is the result of the fee increased in section 207, chapter 44, Laws of 2015 3rd sp. sess. must be distributed to the connecting Washington account created under RCW 46.68.395.

(a) Any state agency files a notice of rule making under chapter 34.05 RCW, absent explicit legislative authorization enacted subsequent to July 1, 2015, for a rule regarding a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

(b) Any state agency otherwise enacts, adopts, orders, or in any way implements a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard, without explicit legislative authorization enacted subsequent to July 1, 2015.

(c) Nothing in this subsection acknowledges, establishes, or creates legal authority for the department of ecology or any other state agency to enact, adopt, order, or in any way implement a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

NEW SECTION. **Sec. 3.** This act takes effect January 1, 2024.

Passed by the House February 9, 2023.

Passed by the Senate March 29, 2023.
Approved by the Governor April 13, 2023.
Filed in Office of Secretary of State April 13, 2023.

CHAPTER 58

[Substitute House Bill 1069]
MENTAL HEALTH COUNSELOR COMPACT

AN ACT Relating to the mental health counselor compact; amending RCW 18.225.090; and adding a new chapter to Title 18 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The purpose of this compact is to facilitate interstate practice of licensed professional counselors with the goal of improving public access to professional counseling services. The practice of professional counseling occurs in the state where the client is located at the time of the counseling services. The compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.

This compact is designed to achieve the following objectives:

(1) Increase public access to professional counseling services by providing for the mutual recognition of other member state licenses;

(2) Enhance the states' ability to protect the public's health and safety;

(3) Encourage the cooperation of member states in regulating multistate practice for licensed professional counselors;

(4) Support spouses of relocating active duty military personnel;

(5) Enhance the exchange of licensure, investigative, and disciplinary information among member states;

(6) Allow for the use of telehealth technology to facilitate increased access to professional counseling services;

(7) Support the uniformity of professional counseling licensure requirements throughout the states to promote public safety and public health benefits;

(8) Invest all member states with the authority to hold a licensed professional counselor accountable for meeting all state practice laws in the state in which the client is located at the time care is rendered through the mutual recognition of member state licenses;

(9) Eliminate the necessity for licenses in multiple states; and

(10) Provide opportunities for interstate practice by licensed professional counselors who meet uniform licensure requirements.

NEW SECTION. **Sec. 2.** As used in this compact, and except as otherwise provided, the following definitions shall apply:

(1) "Active duty military" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. chapters 1209 and 1211.

(2) "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against a licensed professional counselor, including actions against an individual's license or privilege to practice such as revocation, suspension,

probation, monitoring of the licensee, limitation on the licensee's practice, or any other encumbrance on licensure affecting a licensed professional counselor's authorization to practice, including issuance of a cease and desist action.

(3) "Alternative program" means a nondisciplinary monitoring or practice remediation process approved by a professional counseling licensing board to address impaired practitioners.

(4) "Continuing competence/education" means a requirement, as a condition of license renewal, to provide evidence of participation in, and/or completion of, educational and professional activities relevant to practice or area of work.

(5) "Counseling compact commission" or "commission" means the national administrative body whose membership consists of all states that have enacted the compact.

(6) "Current significant investigative information" means:

(a) Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the licensed professional counselor to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or

(b) Investigative information that indicates that the licensed professional counselor represents an immediate threat to public health and safety regardless of whether the licensed professional counselor has been notified and had an opportunity to respond.

(7) "Data system" means a repository of information about licensees, including, but not limited to, continuing education, examination, licensure, investigative, privilege to practice, and adverse action information.

(8) "Encumbered license" means a license in which an adverse action restricts the practice of licensed professional counseling by the licensee and said adverse action has been reported to the national practitioners data bank.

(9) "Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of licensed professional counseling by a licensing board.

(10) "Executive committee" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the commission.

(11) "Home state" means the member state that is the licensee's primary state of residence.

(12) "Impaired practitioner" means an individual who has a condition(s) that may impair their ability to practice as a licensed professional counselor without some type of intervention and may include, but are not limited to, alcohol and drug dependence, mental health impairment, and neurological or physical impairments.

(13) "Investigative information" means information, records, and documents received or generated by a professional counseling licensing board pursuant to an investigation.

(14) "Jurisprudence requirement," if required by a member state, means the assessment of an individual's knowledge of the laws and rules governing the practice of professional counseling in a state.

(15) "Licensed professional counselor" means a counselor licensed by a member state, regardless of the title used by that state, to independently assess, diagnose, and treat behavioral health conditions.

(16) "Licensee" means an individual who currently holds an authorization from the state to practice as a licensed professional counselor.

(17) "Licensing board" means the agency of a state, or equivalent, that is responsible for the licensing and regulation of licensed professional counselors.

(18) "Member state" means a state that has enacted the compact.

(19) "Privilege to practice" means a legal authorization, which is equivalent to a license, permitting the practice of professional counseling in a remote state.

(20) "Professional counseling" means the assessment, diagnosis, and treatment of behavioral health conditions by a licensed professional counselor.

(21) "Remote state" means a member state other than the home state, where a licensee is exercising or seeking to exercise the privilege to practice.

(22) "Rule" means a regulation promulgated by the commission that has the force of law.

(23) "Single state license" means a licensed professional counselor license issued by a member state that authorizes practice only within the issuing state and does not include a privilege to practice in any other member state.

(24) "State" means any state, commonwealth, district, or territory of the United States of America that regulates the practice of professional counseling.

(25) "Telehealth" means the application of telecommunication technology to deliver professional counseling services remotely to assess, diagnose, and treat behavioral health conditions.

(26) "Unencumbered license" means a license that authorizes a licensed professional counselor to engage in the full and unrestricted practice of professional counseling.

NEW SECTION. **Sec. 3.** (1) To participate in the compact, a state must currently:

(a) License and regulate licensed professional counselors;

(b) Require licensees to pass a nationally recognized exam approved by the commission;

(c) Require licensees to have a 60 semester-hour (or 90 quarter-hour) master's degree in counseling or 60 semester-hours (or 90 quarter-hours) of graduate course work including the following topic areas:

(i) Professional counseling orientation and ethical practice;

(ii) Social and cultural diversity;

(iii) Human growth and development;

(iv) Career development;

(v) Counseling and helping relationships;

(vi) Group counseling and group work;

(vii) Diagnosis and treatment; assessment and testing;

(viii) Research and program evaluation; and

(ix) Other areas as determined by the commission;

(d) Require licensees to complete a supervised postgraduate professional experience as defined by the commission;

(e) Have a mechanism in place for receiving and investigating complaints about licensees.

(2) A member state shall:

(a) Participate fully in the commission's data system, including using the commission's unique identifier as defined in rules;

(b) Notify the commission, in compliance with the terms of the compact and rules, of any adverse action or the availability of investigative information regarding a licensee;

(c) Implement or utilize procedures for considering the criminal history records of applicants for an initial privilege to practice. These procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state's criminal records;

(i) A member state must fully implement a criminal background check requirement, within a time frame established by rule, by receiving the results of the federal bureau of investigation record search and shall use the results in making licensure decisions.

(ii) Communication between a member state, the commission, and among member states regarding the verification of eligibility for licensure through the compact shall not include any information received from the federal bureau of investigation relating to a federal criminal records check performed by a member state under Public Law 92-544;

(d) Comply with the rules of the commission;

(e) Require an applicant to obtain or retain a license in the home state and meet the home state's qualifications for licensure or renewal of licensure, as well as all other applicable state laws;

(f) Grant the privilege to practice to a licensee holding a valid unencumbered license in another member state in accordance with the terms of the compact and rules; and

(g) Provide for the attendance of the state's commissioner to the counseling compact commission meetings.

(3) Member states may charge a fee for granting the privilege to practice.

(4) Individuals not residing in a member state shall continue to be able to apply for a member state's single state license as provided under the laws of each member state. However, the single state license granted to these individuals shall not be recognized as granting a privilege to practice professional counseling in any other member state.

(5) Nothing in this compact shall affect the requirements established by a member state for the issuance of a single state license.

(6) A license issued to a licensed professional counselor by a home state to a resident in that state shall be recognized by each member state as authorizing a licensed professional counselor to practice professional counseling, under a privilege to practice, in each member state.

NEW SECTION. **Sec. 4.** (1) To exercise the privilege to practice under the terms and provisions of the compact, the licensee shall:

(a) Hold a license in the home state;

(b) Have a valid United States social security number or national practitioner identifier;

(c) Be eligible for a privilege to practice in any member state in accordance with subsections (4), (7), and (8) of this section;

(d) Have not had any encumbrance or restriction against any license or privilege to practice within the previous two years;

(e) Notify the commission that the licensee is seeking the privilege to practice within a remote state(s);

(f) Pay any applicable fees, including any state fee, for the privilege to practice;

(g) Meet any continuing competence/education requirements established by the home state;

(h) Meet any jurisprudence requirements established by the remote state(s) in which the licensee is seeking a privilege to practice; and

(i) Report to the commission any adverse action, encumbrance, or restriction on license taken by any nonmember state within 30 days from the date the action is taken.

(2) The privilege to practice is valid until the expiration date of the home state license. The licensee must comply with the requirements of subsection (1) of this section to maintain the privilege to practice in the remote state.

(3) A licensee providing professional counseling in a remote state under the privilege to practice shall adhere to the laws and regulations of the remote state.

(4) A licensee providing professional counseling services in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, remove a licensee's privilege to practice in the remote state for a specific period of time, impose fines, and/or take any other necessary actions to protect the health and safety of its citizens. The licensee may be ineligible for a privilege to practice in any member state until the specific time for removal has passed and all fines are paid.

(5) If a home state license is encumbered, the licensee shall lose the privilege to practice in any remote state until the following occur:

(a) The home state license is no longer encumbered; and

(b) Have not had any encumbrance or restriction against any license or privilege to practice within the previous two years.

(6) Once an encumbered license in the home state is restored to good standing, the licensee must meet the requirements of subsection (1) of this section to obtain a privilege to practice in any remote state.

(7) If a licensee's privilege to practice in any remote state is removed, the individual may lose the privilege to practice in all other remote states until the following occur:

(a) The specific period of time for which the privilege to practice was removed has ended;

(b) All fines have been paid; and

(c) Have not had any encumbrance or restriction against any license or privilege to practice within the previous two years.

(8) Once the requirements of subsection (7) of this section have been met, the licensee must meet the requirements in subsection (1) of this section to obtain a privilege to practice in a remote state.

NEW SECTION. **Sec. 5.** (1) A licensed professional counselor may hold a home state license, which allows for a privilege to practice in other member states, in only one member state at a time.

(2) If a licensed professional counselor changes primary state of residence by moving between two member states:

(a) The licensed professional counselor shall file an application for obtaining a new home state license based on a privilege to practice, pay all

applicable fees, and notify the current and new home state in accordance with applicable rules adopted by the commission.

(b) Upon receipt of an application for obtaining a new home state license by virtue of a privilege to practice, the new home state shall verify that the licensed professional counselor meets the pertinent criteria outlined in section 4 of this act via the data system, without need for primary source verification except for:

(i) A federal bureau of investigation fingerprint based criminal background check if not previously performed or updated pursuant to applicable rules adopted by the commission in accordance with Public Law 92-544;

(ii) Other criminal background check as required by the new home state; and

(iii) Completion of any requisite jurisprudence requirements of the new home state.

(c) The former home state shall convert the former home state license into a privilege to practice once the new home state has activated the new home state license in accordance with applicable rules adopted by the commission.

(d) Notwithstanding any other provision of this compact, if the licensed professional counselor cannot meet the criteria in section 4 of this act, the new home state may apply its requirements for issuing a new single state license.

(e) The licensed professional counselor shall pay all applicable fees to the new home state in order to be issued a new home state license.

(3) If a licensed professional counselor changes primary state of residence by moving from a member state to a nonmember state, or from a nonmember state to a member state, the state criteria shall apply for issuance of a single state license in the new state.

(4) Nothing in this compact shall interfere with a licensee's ability to hold a single state license in multiple states, however for the purposes of this compact, a licensee shall have only one home state license.

(5) Nothing in this compact shall affect the requirements established by a member state for the issuance of a single state license.

NEW SECTION. **Sec. 6.** Active duty military personnel, or their spouse, shall designate a home state where the individual has a current license in good standing. The individual may retain the home state designation during the period the service member is on active duty. Subsequent to designating a home state, the individual shall only change their home state through application for licensure in the new state, or through the process outlined in section 5 of this act.

NEW SECTION. **Sec. 7.** (1) Member states shall recognize the right of a licensed professional counselor, licensed by a home state in accordance with section 3 of this act and under rules promulgated by the commission, to practice professional counseling in any member state via telehealth under a privilege to practice as provided in the compact and rules promulgated by the commission.

(2) A licensee providing professional counseling services in a remote state under the privilege to practice shall adhere to the laws and regulations of the remote state.

NEW SECTION. **Sec. 8.** (1) In addition to the other powers conferred by state law, a remote state shall have the authority, in accordance with existing state due process law, to:

(a) Take adverse action against a licensed professional counselor's privilege to practice within that member state; and

(b) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing board in a member state for the attendance and testimony of witnesses or the production of evidence from another member state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in which the witnesses or evidence are located.

Only the home state shall have the power to take adverse action against a licensed professional counselor's license issued by the home state.

(2) For purposes of taking adverse action, the home state shall give the same priority and effect to reported conduct received from a member state as it would if the conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.

(3) The home state shall complete any pending investigations of a licensed professional counselor who changes primary state of residence during the course of the investigations. The home state shall also have the authority to take appropriate action(s) and shall promptly report the conclusions of the investigations to the administrator of the data system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any adverse actions.

(4) A member state, if otherwise permitted by state law, may recover from the affected licensed professional counselor the costs of investigations and dispositions of cases resulting from any adverse action taken against that licensed professional counselor.

(5) A member state may take adverse action based on the factual findings of the remote state, provided that the member state follows its own procedures for taking the adverse action.

(6) Joint investigations.

(a) In addition to the authority granted to a member state by its respective professional counseling practice act or other applicable state law, any member state may participate with other member states in joint investigations of licensees.

(b) Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the compact.

(7) If adverse action is taken by the home state against the license of a licensed professional counselor, the licensed professional counselor's privilege to practice in all other member states shall be deactivated until all encumbrances have been removed from the state license. All home state disciplinary orders that impose adverse action against the license of a licensed professional counselor shall include a statement that the licensed professional counselor's privilege to practice is deactivated in all member states during the pendency of the order.

(8) If a member state takes adverse action, it shall promptly notify the administrator of the data system. The administrator of the data system shall promptly notify the home state of any adverse actions by remote states.

(9) Nothing in this compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action.

NEW SECTION. **Sec. 9.** (1) The compact member states hereby create and establish a joint public agency known as the counseling compact commission:

(a) The commission is an instrumentality of the compact states.

(b) Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

(c) Nothing in this compact shall be construed to be a waiver of sovereign immunity.

(2) Membership, voting, and meetings.

(a) Each member state shall have and be limited to one delegate selected by that member state's licensing board.

(b) The delegate shall be either:

(i) A current member of the licensing board at the time of appointment, who is a licensed professional counselor or public member; or

(ii) An administrator of the licensing board.

(c) Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed.

(d) The member state licensing board shall fill any vacancy occurring on the commission within 60 days.

(e) Each delegate shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission.

(f) A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

(g) The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

(h) The commission shall by rule establish a term of office for delegates and may by rule establish term limits.

(3) The commission shall have the following powers and duties:

(a) Establish the fiscal year of the commission;

(b) Establish bylaws;

(c) Maintain its financial records in accordance with the bylaws;

(d) Meet and take such actions as are consistent with the provisions of this compact and the bylaws;

(e) Promulgate rules which shall be binding to the extent and in the manner provided for in the compact;

(f) Bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any state licensing board to sue or be sued under applicable law shall not be affected;

(g) Purchase and maintain insurance and bonds;

(h) Borrow, accept, or contract for services of personnel including, but not limited to, employees of a member state;

(i) Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of

the compact, and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

(j) Accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same; provided that at all times the commission shall avoid any appearance of impropriety and/or conflict of interest;

(k) Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use, any property, real, personal, or mixed; provided that at all times the commission shall avoid any appearance of impropriety;

(l) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

(m) Establish a budget and make expenditures;

(n) Borrow money;

(o) Appoint committees, including standing committees composed of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this compact and the bylaws;

(p) Provide and receive information from, and cooperate with, law enforcement agencies;

(q) Establish and elect an executive committee; and

(r) Perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of professional counseling licensure and practice.

(4) The executive committee.

(a) The executive committee shall have the power to act on behalf of the commission according to the terms of this compact.

(b) The executive committee shall be composed of up to 11 members:

(i) Seven voting members who are elected by the commission from the current membership of the commission;

(ii) Up to four ex-officio, nonvoting members from four recognized national professional counselor organizations. The ex-officio members will be selected by their respective organizations.

(c) The commission may remove any member of the executive committee as provided in bylaws.

(d) The executive committee shall meet at least annually.

(e) The executive committee shall have the following duties and responsibilities:

(i) Recommend to the entire commission changes to the rules or bylaws, changes to this compact legislation, fees paid by compact member states such as annual dues, and any commission compact fee charged to licensees for the privilege to practice;

(ii) Ensure compact administration services are appropriately provided, contractual or otherwise;

(iii) Prepare and recommend the budget;

(iv) Maintain financial records on behalf of the commission;

(v) Monitor compact compliance of member states and provide compliance reports to the commission;

(vi) Establish additional committees as necessary; and

(vii) Other duties as provided in rules or bylaws.

(5) Meetings of the commission.

(a) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rule-making provisions in section 11 of this act.

(b) The commission or the executive committee or other committees of the commission may convene in a closed, nonpublic meeting if the commission or executive committee or other committees of the commission must discuss:

(i) Noncompliance of a member state with its obligations under the compact;

(ii) The employment, compensation, discipline, or other matters, practices, or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;

(iii) Current, threatened, or reasonably anticipated litigation;

(iv) Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

(v) Accusing any person of a crime or formally censuring any person;

(vi) Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(vii) Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(viii) Disclosure of investigative records compiled for law enforcement purposes;

(ix) Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact; or

(x) Matters specifically exempted from disclosure by federal or member state statute.

(c) If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

(d) The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

(6) Financing of the commission.

(a) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(b) The commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

(c) The commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment

amount shall be allocated based upon a formula to be determined by the commission, which shall promulgate a rule binding upon all member states.

(d) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the commission pledge the credit of any of the member states, except by and with the authority of the member state.

(e) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the commission.

(7) Qualified immunity, defense, and indemnification.

(a) The members, officers, executive director, employees, and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided, that nothing in this subsection shall be construed to protect any such person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

(b) The commission shall defend any member, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided, that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

(c) The commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided, that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

NEW SECTION. **Sec. 10.** (1) The commission shall provide for the development, maintenance, operation, and utilization of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in member states.

(2) Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all

individuals to whom this compact is applicable as required by the rules of the commission, including:

(a) Identifying information;

(b) Licensure data;

(c) Adverse actions against a license or privilege to practice;

(d) Nonconfidential information related to alternative program participation;

(e) Any denial of application for licensure, and the reason(s) for such denial;

(f) Current significant investigative information; and

(g) Other information that may facilitate the administration of this compact, as determined by the rules of the commission.

(3) Investigative information pertaining to a licensee in any member state will only be available to other member states.

(4) The commission shall promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any member state will be available to any other member state.

(5) Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.

(6) Any information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the data system.

NEW SECTION. **Sec. 11.** (1) The commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purpose of the compact. Notwithstanding the foregoing, in the event the commission exercises its rule-making authority in a manner that is beyond the scope of the purposes of the compact, or the powers granted hereunder, then such an action by the commission shall be invalid and have no force or effect.

(2) The commission shall exercise its rule-making powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

(3) If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact within four years of the date of adoption of the rule, then such rule shall have no further force and effect in any member state.

(4) Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

(5) Prior to promulgation and adoption of a final rule or rules by the commission, and at least 30 days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rule making:

(a) On the website of the commission or other publicly accessible platform; and

(b) On the website of each member state professional counseling licensing board or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.

(6) The notice of proposed rule making shall include:

(a) The proposed time, date, and location of the meeting in which the rule will be considered and voted upon;

(b) The text of the proposed rule or amendment and the reason for the proposed rule;

(c) A request for comments on the proposed rule from any interested person; and

(d) The manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

(7) Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

(8) The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

(a) At least 25 persons;

(b) A state or federal governmental subdivision or agency; or

(c) An association having at least 25 members.

(9) If a hearing is held on the proposed rule or amendment, the commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the commission shall publish the mechanism for access to the electronic hearing.

(a) All persons wishing to be heard at the hearing shall notify the executive director of the commission or other designated member in writing of their desire to appear and testify at the hearing not less than five business days before the scheduled date of the hearing.

(b) Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

(c) All hearings will be recorded. A copy of the recording will be made available on request.

(d) Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

(10) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

(11) If no written notice of intent to attend the public hearing by interested parties is received, the commission may proceed with promulgation of the proposed rule without a public hearing.

(12) The commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rule-making record and the full text of the rule.

(13) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rule-making procedures provided in the compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

(a) Meet an imminent threat to public health, safety, or welfare;

(b) Prevent a loss of commission or member state funds;

(c) Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or

(d) Protect public health and safety.

(14) The commission or an authorized committee of the commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the chair of the commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

NEW SECTION. **Sec. 12.** (1) Oversight.

(a) The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law.

(b) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the commission.

(c) The commission shall be entitled to receive service of process in any such proceeding and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the commission shall render a judgment or order void as to the commission, this compact, or promulgated rules.

(2) Default, technical assistance, and termination. If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall:

(a) Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default, and/or any other action to be taken by the commission; and

(b) Provide remedial training and specific technical assistance regarding the default.

(3) If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the member states, and all rights, privileges, and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(4) Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor, the

majority and minority leaders of the defaulting state's legislature, and each of the member states.

(5) A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(6) The commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.

(7) The defaulting state may appeal the action of the commission by petitioning the United States district court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

(8) Dispute resolution.

(a) Upon request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states and between member and nonmember states.

(b) The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

(9) Enforcement.

(a) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

(b) By majority vote, the commission may initiate legal action in the United States district court for the District of Columbia or the federal district where the commission has its principal offices against a member state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

(c) The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

NEW SECTION. **Sec. 13.** (1) The compact shall come into effect on the date on which the compact statute is enacted into law in the 10th member state. The provisions, which become effective at that time, shall be limited to the powers granted to the commission relating to assembly and the promulgation of rules. Thereafter, the commission shall meet and exercise rule-making powers necessary to the implementation and administration of the compact.

(2) Any state that joins the compact subsequent to the commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission shall have the full force and effect of law on the day the compact becomes law in that state.

(3) Any member state may withdraw from this compact by enacting a statute repealing the same.

(a) A member state's withdrawal shall not take effect until six months after enactment of the repealing statute.

(b) Withdrawal shall not affect the continuing requirement of the withdrawing state's professional counseling licensing board to comply with the

investigative and adverse action reporting requirements of this compact prior to the effective date of withdrawal.

(4) Nothing contained in this compact shall be construed to invalidate or prevent any professional counseling licensure agreement or other cooperative arrangement between a member state and a nonmember state that does not conflict with the provisions of this compact.

(5) This compact may be amended by the member states. No amendment to this compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

NEW SECTION. **Sec. 14.** This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the Constitution of any member state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the Constitution of any member state, the compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

NEW SECTION. **Sec. 15.** (1) A licensee providing professional counseling services in a remote state under the privilege to practice shall adhere to the laws and regulations, including scope of practice, of the remote state.

(2) Nothing herein prevents enforcement of any other law of a member state that is not inconsistent with the compact.

(3) Any laws in a member state in conflict with the compact are superseded to the extent of the conflict.

(4) Any lawful actions of the commission, including all rules and bylaws properly promulgated by the commission, are binding upon the member states.

(5) All permissible agreements between the commission and the member states are binding in accordance with their terms.

(6) In the event any provision of the compact exceeds the constitutional limits imposed on the legislature of any member state, the provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

Sec. 16. RCW 18.225.090 and 2021 c 21 s 1 are each amended to read as follows:

(1) The secretary shall issue a license to any applicant who demonstrates to the satisfaction of the secretary that the applicant meets the following education and experience requirements for the applicant's practice area.

(a) Licensed social work classifications:

(i) Licensed advanced social worker:

(A) Graduation from a master's or doctorate social work educational program accredited by the council on social work education and approved by the secretary based upon nationally recognized standards;

(B) Successful completion of an approved examination;

(C) Successful completion of a supervised experience requirement. The supervised experience requirement consists of a minimum of ((~~three thousand~~

~~two hundred~~)) 3,200 hours with supervision by an approved supervisor who has been licensed for at least two years. Of those supervised hours:

(I) At least ((~~ninety~~)) 90 hours must include direct supervision as specified in this subsection by a licensed independent clinical social worker, a licensed advanced social worker, or an equally qualified licensed mental health professional. Of those hours of directly supervised experience:

(1) At least ((~~fifty~~)) 50 hours must include supervision by a licensed advanced social worker or licensed independent clinical social worker; the other ((~~forty~~)) 40 hours may be supervised by an equally qualified licensed mental health practitioner; and

(2) At least ((~~forty~~)) 40 hours must be in one-to-one supervision and ((~~fifty~~)) 50 hours may be in one-to-one supervision or group supervision; and

(II) Eight hundred hours must be in direct client contact; and

(D) Successful completion of continuing education requirements of ((~~thirty-six~~)) 36 hours, with six in professional ethics.

(ii) Licensed independent clinical social worker:

(A) Graduation from a master's or doctorate level social work educational program accredited by the council on social work education and approved by the secretary based upon nationally recognized standards;

(B) Successful completion of an approved examination;

(C) Successful completion of a supervised experience requirement. The supervised experience requirement consists of a minimum of ((~~four thousand~~)) 4,000 hours of experience, over a period of not less than three years, with supervision by an approved supervisor who has been licensed for at least two years and, as specified in this subsection, may be either a licensed independent clinical social worker who has had at least one year of experience in supervising the clinical social work of others or an equally qualified licensed mental health practitioner. Of those supervised hours:

(I) At least ((~~one thousand~~)) 1,000 hours must be direct client contact; and

(II) Hours of direct supervision must include:

(1) At least ((~~one hundred thirty~~)) 130 hours by a licensed mental health practitioner;

(2) At least ((~~seventy~~)) 70 hours of supervision with a licensed independent clinical social worker meeting the qualifications under this subsection (1)(a)(ii)(C); the other ((~~sixty~~)) 60 hours may be supervised by an equally qualified licensed mental health practitioner; and

(3) At least ((~~sixty~~)) 60 hours must be in one-to-one supervision and ((~~seventy~~)) 70 hours may be in one-to-one supervision or group supervision; and

(D) Successful completion of continuing education requirements of ((~~thirty-six~~)) 36 hours, with six in professional ethics.

(b) Licensed mental health counselor:

(i) (A) Graduation from a master's or doctoral level educational program in counseling that consists of at least 60 semester hours or 90 quarter hours, or includes at least 60 semester hours or 90 quarter hours of graduate coursework that includes the following topic areas:

(I) Mental health counseling orientation and ethical practice;

(II) Social and cultural diversity;

(III) Human growth and development;

(IV) Career development;

(V) Counseling and helping relationships;
(VI) Group counseling and group work;
(VII) Diagnosis and treatment;
(VIII) Assessment and testing; and
(IX) Research and program evaluation; or

(B) Graduation from a master's or doctoral level educational program in ((~~mental health counseling or~~)) a related discipline from a college or university approved by the secretary based upon nationally recognized standards. An applicant who satisfies the educational requirements for licensure under this subsection (1)(b)(i)(B) is not qualified to exercise the privilege to practice under the counseling compact established in chapter 18.--- RCW (the new chapter created in section 17 of this act) unless the master's or doctoral level educational program in a related discipline consists of at least 60 semester hours or 90 quarter hours, or includes at least 60 semester hours or 90 quarter hours of graduate coursework that includes the topic areas specified in subsection (1)(b)(i)(A)(I) through (IX) of this section;

(ii) Successful completion of an approved examination;

(iii) Successful completion of a supervised experience requirement. The experience requirement consists of a minimum of ((~~thirty-six~~)) 36 months full-time counseling or ((~~three thousand~~)) 3,000 hours of postgraduate mental health counseling under the supervision of a qualified licensed mental health counselor or equally qualified licensed mental health practitioner, in an approved setting. The ((~~three thousand~~)) 3,000 hours of required experience includes a minimum of ((~~one hundred~~)) 100 hours spent in immediate supervision with the qualified licensed mental health counselor, and includes a minimum of ((~~one thousand two hundred~~)) 1,200 hours of direct counseling with individuals, couples, families, or groups; and

(iv) Successful completion of continuing education requirements of ((~~thirty-six~~)) 36 hours, with six in professional ethics.

(c) Licensed marriage and family therapist:

(i) Graduation from a master's degree or doctoral degree educational program in marriage and family therapy or graduation from an educational program in an allied field equivalent to a master's degree or doctoral degree in marriage and family therapy approved by the secretary based upon nationally recognized standards;

(ii) Successful passage of an approved examination;

(iii) Successful completion of a supervised experience requirement. The experience requirement consists of a minimum of two calendar years of full-time marriage and family therapy. Of the total supervision, ((~~one hundred~~)) 100 hours must be with a licensed marriage and family therapist with at least five years' clinical experience; the other ((~~one hundred~~)) 100 hours may be with an equally qualified licensed mental health practitioner. Total experience requirements include:

(A) A minimum of ((~~three thousand~~)) 3,000 hours of experience, ((~~one thousand~~)) 1,000 hours of which must be direct client contact; at least ((~~five hundred~~)) 500 hours must be gained in diagnosing and treating couples and families; plus

(B) At least ((~~two hundred~~)) 200 hours of qualified supervision with a supervisor. At least ((~~one hundred~~)) 100 of the ((~~two hundred~~)) 200 hours must

be one-on-one supervision, and the remaining hours may be in one-on-one or group supervision.

Applicants who have completed a master's program accredited by the commission on accreditation for marriage and family therapy education of the American association for marriage and family therapy may be credited with ((~~five hundred~~)) 500 hours of direct client contact and ((~~one hundred~~)) 100 hours of formal meetings with an approved supervisor; and

(iv) Successful completion of continuing education requirements of ((~~thirty-six~~)) 36 hours, with six in professional ethics.

(2) The department shall establish by rule what constitutes adequate proof of meeting the criteria. Only rules in effect on the date of submission of a completed application of an associate for her or his license shall apply. If the rules change after a completed application is submitted but before a license is issued, the new rules shall not be reason to deny the application.

(3) In addition, applicants shall be subject to the grounds for denial of a license or issuance of a conditional license under chapter 18.130 RCW.

NEW SECTION. **Sec. 17.** Sections 1 through 15 of this act constitute a new chapter in Title 18 RCW.

Passed by the House February 6, 2023.
Passed by the Senate April 5, 2023.
Approved by the Governor April 13, 2023.
Filed in Office of Secretary of State April 13, 2023.

CHAPTER 59

[Substitute House Bill 1077]

COURTHOUSE FACILITY DOGS—VARIOUS PROVISIONS

AN ACT Relating to courthouse facility dogs; amending RCW 10.52.110; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that questioning child or adult witnesses about a traumatic event in their lives can trigger an acute emotional response. The trigger makes them feel or behave the same way they did during or immediately after the traumatic event because the brain may not differentiate what happened then from what is going on around them now. These triggers can cause an immediate emotional response that bypasses the reasoning part of our brains, resulting in sudden or unexplained bouts of crying; fear, paranoia, or anxiety; panic attacks; and sudden physical symptoms such as nausea or fatigue. For children and adults, traumatic events and the responses that result often interfere with their ability to respond to questions or testify in court about traumatic events they have experienced or witnessed.

The legislature finds that children are particularly susceptible to adverse effects of exposure to trauma. Children may undergo secondary trauma when they participate in investigation and prosecution of crimes and other stressful legal proceedings. The American academy of pediatrics advises ongoing psychosocial support for children to address the adverse effects of the traumatic event and their experience recounting it during the legal process. The American academy of pediatrics identifies assistance from courthouse facility dogs as an

effective psychosocial support intervention for children participating in legal proceedings.

The legislature finds that courthouse facility dog programs in our state are innovative community-based interventions. The courthouse facility dog's calm companionship reduces a traumatized child's anxiety, prevents recurrent trauma, and supports the child's ability to respond to questions and information requests during investigations and subsequent court processes, and may hasten their recovery from this experience. Likewise, the courthouse facility dog program is an effective intervention for persons who have developmental disabilities, adults who experienced childhood trauma, and other vulnerable people who could have difficulty engaging with the legal process.

The legislature finds that multiple visits between a potential witness and the courthouse facility dog and handler may be needed to establish the relationship supporting an order for the courthouse facility dog's presence in court during testimony. Courthouse facility dogs and their handlers require access to locations outside the courthouse for meetings with potential witnesses or other activities associated with the courthouse facility dog program's operations. The law does not expressly authorize access for the dog and handler to noncourthouse locations or public transportation. Therefore, the legislature intends to authorize expanded access for courthouse facility dogs and their handlers to locations outside courthouses and to modes of public transportation to provide this service.

Sec. 2. RCW 10.52.110 and 2019 c 398 s 1 are each amended to read as follows:

(1) Courts are authorized to ((~~permit~~)) exercise discretion permitting a courthouse facility dog ((~~for use by witnesses~~)) to be used in any judicial proceeding.

(2) Courts with an available courthouse facility dog must allow a witness under eighteen years of age, or who has a developmental disability as defined in RCW 71A.10.020, to use a courthouse facility dog to accompany them while testifying in court.

(3) Courts may allow any witness who does not meet the criteria in subsection (2) of this section to use a courthouse facility dog, if available, to accompany them while testifying in court.

(4) A courthouse facility dog accompanied by a certified handler is authorized to access: (a) Any courthouse; (b) any location where the courthouse facility dog and certified handler provide services, participate in administrative activities of the courthouse facility dog program, engage in community outreach, or participate in training activities; (c) any location related to a law enforcement investigation where law enforcement requests their presence; and (d) matters pending in the civil or criminal justice system. Authorized locations include, but are not limited to, places of public accommodation as defined in RCW 49.60.040, all modes of public transportation, children's advocacy centers, schools, day care facilities, law enforcement agencies, prosecutors' offices, attorneys' offices, medical facilities, specialty courts, and court-appointed special advocates and guardian ad litem program offices. A certified handler may be asked to show their identification card, provided by the accredited assistance dog organization that trained and certified the handler, to establish

that they are a certified handler and that a courthouse facility dog they are accompanying is authorized to access the locations identified in this section.

(5) Before the introduction of a courthouse facility dog into the courtroom and outside the presence of the jury, the party desiring to use the assistance of a courthouse facility dog must file a motion setting out: (a) The credentials of the courthouse facility dog; (b) that the courthouse facility dog is adequately insured; (c) that a relationship has been established between the witness and the courthouse facility dog in anticipation of testimony; and (d) reasons why the courthouse facility dog ((~~is necessary to facilitate~~)) would help reduce the witness's anxiety and elicit the witness's testimony. The motion may be filed in writing or made orally before the court.

(((~~(5) Upon a finding that~~)) (6) When the court finds the circumstances warrant the presence of a courthouse facility dog ((~~is necessary to facilitate a witness's testimony~~)), the court must state the basis for its decision on the record. The witness ((~~must~~)) should be afforded the opportunity to have a courthouse facility dog accompany the witness while testifying, if a courthouse facility dog and certified handler are available within the jurisdiction of the court in which the proceeding is held.

(((~~(6)~~)) (7) If the court grants the motion filed under subsection (((~~(4)~~)) (5) of this section, ((~~the~~)) a certified handler must be present in the courtroom to advocate for the ((~~[courthouse]~~)) courthouse facility dog as necessary. The courthouse facility dog performing this service should be trained to accompany the witness to the stand without being attached to ((~~the~~)) a certified handler by a leash and lie on the floor out of view of the jury while the witness testifies.

(((~~(7)~~)) (8) In a jury trial, the following provisions apply:

(a) In the course of jury selection, either party may, with the court's approval, voir dire prospective jury members on whether the presence of a courthouse facility dog to assist a witness would create undue sympathy for the witness or cause prejudice to a party in any other way.

(b) To the extent possible, the court shall ensure that the jury will be unable to observe the ((~~[courthouse]~~)) courthouse facility dog prior to, during, and subsequent to the witness's testimony.

(c) On request of either party, the court shall present appropriate jury instructions that are designed to prevent any prejudice that might result from the presence of the courthouse facility dog before the witness testifies and at the conclusion of the trial.

(((~~(8)~~)) (9) Courts may adopt rules for the use of a courthouse facility dog authorized under this section.

(((~~(9)~~))) (10)(a) Each accredited assistance dog organization that trains and certifies courthouse facility dog handlers must issue an identification card to each handler it certifies that works with courthouse facility dogs in Washington.

(b) The identification card must (i) clearly state it is a "Certified Courthouse Facility Dog Handler" identification; (ii) include the complete legal name of the certified handler; and (iii) provide the name of and contact information for the accredited assistance dog organization that trained and certified the handler.

(c) The identification card must further state "Any courthouse facility dog accompanied by a certified handler is legally authorized to access all courthouses, places of public accommodation as defined in RCW 49.60.040, public transportation, children's advocacy centers, schools, day care facilities,

law enforcement agencies, prosecutors' offices, attorneys' offices, medical facilities, specialty courts, court-appointed special advocates and guardian ad litem program offices, and all other locations identified in RCW 10.52.110."

(11) For purposes of this section:

(a) "Certified handler" means a person who (i) was trained to handle ((~~the~~)) a courthouse facility dog by ((~~the~~)) an accredited assistance dog organization ((~~that placed the dog~~)) and (ii) is a professional working in the legal system who is knowledgeable about its practices including, but not limited to, victim advocates, forensic interviewers, detectives, prosecuting attorneys, and guardians ad litem.

(b) "Courthouse facility dog" means a dog that: (i) Has graduated from a program of an assistance dog organization that is accredited by a recognized organization whose main purpose is to grant accreditation to assistance dog organizations based on standards of excellence in all areas of assistance dog acquisition, training of the dogs and their certified handlers, and placement; ((~~and~~)) (ii) demonstrates continued proficiency in providing safe and reliable services through ongoing training according to the assistance dog organization's training standards; (iii) was specially selected to provide services in the legal system to provide quiet companionship to witnesses and potential witnesses during stressful interviews, examinations, meetings, and other encounters associated with a law enforcement investigation, and legal proceedings, thereby enabling them to better engage with the process; and (iv) travels as needed with a certified handler as a team to and from authorized locations for training, community outreach, and other purposes associated with the operations of a courthouse facility dog program established in this section.

Passed by the House February 28, 2023.

Passed by the Senate March 31, 2023.

Approved by the Governor April 13, 2023.

Filed in Office of Secretary of State April 13, 2023.

CHAPTER 60

[House Bill 1082]

PHYSICAL THERAPISTS AND OCCUPATIONAL THERAPISTS—PROFESSIONAL SERVICE CORPORATIONS

AN ACT Relating to expanding opportunities for physical therapy and occupational therapy professionals to form professional service corporations; and amending RCW 18.100.050.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 18.100.050 and 2021 c 176 s 5204 are each amended to read as follows:

(1) An individual or group of individuals duly licensed or otherwise legally authorized to render the same professional services within this state may organize and become a shareholder or shareholders of a professional corporation for pecuniary profit under the provisions of Title 23B RCW for the purpose of rendering professional service. One or more of the legally authorized individuals shall be the incorporators of the professional corporation.

(2) Notwithstanding any other provision of this chapter, registered architects and registered engineers may own stock in and render their individual professional services through one professional service corporation.

(3) Licensed health care professionals, providing services to enrolled participants either directly or through arrangements with a health maintenance organization registered under chapter 48.46 RCW or federally qualified health maintenance organization, may own stock in and render their individual professional services through one professional service corporation.

(4) Professionals may organize a nonprofit nonstock corporation under this chapter and chapter 24.03A RCW to provide professional services, and the provisions of this chapter relating to stock and referring to Title 23B RCW shall not apply to any such corporation.

(5)(a) Notwithstanding any other provision of this chapter, health care professionals who are licensed or certified pursuant to chapters 18.06, 18.225, 18.22, 18.25, 18.29, 18.34, 18.35, 18.36A, 18.50, 18.53, 18.55, 18.57, 18.59, 18.64, 18.71, 18.71A, 18.74, 18.79, 18.83, 18.89, 18.108, and 18.138 RCW may own stock in and render their individual professional services through one professional service corporation and are to be considered, for the purpose of forming a professional service corporation, as rendering the "same specific professional services" or "same professional services" or similar terms.

(b) ((~~Notwithstanding any other provision of this chapter, health care professionals who are regulated under chapters 18.59 and 18.74 RCW may own stock in and render their individual professional services through one professional service corporation formed for the sole purpose of providing professional services within their respective scope of practice.~~

~~(c)~~)) Formation of a professional service corporation under this subsection does not restrict the application of the uniform disciplinary act under chapter 18.130 RCW, or applicable health care professional statutes under Title 18 RCW, including but not limited to restrictions on persons practicing a health profession without being appropriately credentialed and persons practicing beyond the scope of their credential.

Passed by the House January 25, 2023.
Passed by the Senate March 29, 2023.
Approved by the Governor April 13, 2023.
Filed in Office of Secretary of State April 13, 2023.

CHAPTER 61

[Substitute House Bill 1088]

UNIFORM FAMILY LAW ARBITRATION ACT

AN ACT Relating to the uniform family law arbitration act; adding a new chapter to Title 26 RCW; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** SHORT TITLE. This act may be known and cited as the uniform family law arbitration act.

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

(1) "Arbitration agreement" means an agreement that subjects a family law dispute to arbitration.

(2) "Arbitration organization" means an association, agency, board, commission, or other entity that is neutral and initiates, sponsors, or administers an arbitration or is involved in the selection of an arbitrator.

(3) "Arbitrator" means an individual selected, alone or with others, to make an award in a family law dispute that is subject to an arbitration agreement.

(4) "Child-related dispute" means a family law dispute regarding legal custody, physical custody, custodial responsibility, parental responsibility or authority, parenting time, right to access, visitation, or financial support regarding a child.

(5) "Court" means the family court.

(6) "Family law dispute" means a contested issue arising under the domestic relations law of this state.

(7) "Party" means an individual who signs an arbitration agreement and whose rights will be determined by an award.

(8) "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal entity.

(9) "Record," used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(10) "Sign" means, with present intent to authenticate or adopt a record:

(a) To execute or adopt a tangible symbol; or

(b) To attach to or logically associate with the record an electronic symbol, sound, or process.

(11) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes a federally recognized Indian tribe.

NEW SECTION. **Sec. 3.** SCOPE. (1) This chapter governs arbitration of a family law dispute.

(2) This chapter does not authorize an arbitrator to make an award that:

(a) Grants a legal separation or dissolution of marriage or domestic partnership, or annulment;

(b) Terminates parental rights;

(c) Grants an adoption or a guardianship of a child or incapacitated individual; or

(d) Determines the status of dependency.

(3) This chapter does not apply to:

(a) Any arbitration governed by chapter 7.06 RCW;

(b) Proceedings under Title 13 RCW;

(c) Jurisdictional determinations under chapter 26.27 RCW;

(d) Proceedings under RCW 26.26A.465;

(e) Writs of habeas corpus;

(f) Disputes as to personal or subject matter jurisdiction;

(g) Determination of venue;

(h) Issuance, modification, or termination of protection orders under chapter 7.105 RCW; and

(i) Delegation of the court's authority to permanently modify a parenting plan based on a finding of substantial change in circumstances.

NEW SECTION. **Sec. 4.** APPLICABLE LAW. (1) Except as otherwise provided in this chapter, the law applicable to arbitration is chapter 7.04A RCW.

(2) In determining the merits of a family law dispute, an arbitrator shall apply the law of this state, including its choice of law rules.

NEW SECTION. **Sec. 5.** ARBITRATION AGREEMENT. (1) An arbitration agreement must:

(a) Be in a record signed by the parties;

(b) Identify the arbitrator, an arbitration organization, or a method of selecting an arbitrator; and

(c) Identify the family law dispute the parties intend to arbitrate.

(2) Except as otherwise provided in subsection (3) of this section, an agreement in a record to arbitrate a family law dispute that arises between the parties before, at the time, or after the agreement is made is valid and enforceable as any other contract and irrevocable except on a ground that exists at law or in equity for the revocation of a contract.

(3) An agreement to arbitrate a child-related dispute that arises between the parties after the agreement is made is unenforceable unless:

(a) The parties affirm the agreement in a record after the dispute arises; or

(b) The agreement was entered during a family law proceeding and the court approved or incorporated the agreement in an order issued in the proceeding.

(4) If a party objects to arbitration on the ground the arbitration agreement is unenforceable or the agreement does not include a family law dispute, the court shall decide whether the agreement is enforceable or includes the family law dispute.

NEW SECTION. **Sec. 6.** NOTICE OF ARBITRATION. A party may initiate arbitration by giving notice to arbitrate to the other party in the manner specified in the arbitration agreement or, in the absence of a specified manner, under the law and procedural rules of this state other than this chapter governing contractual arbitration.

NEW SECTION. **Sec. 7.** MOTION FOR JUDICIAL RELIEF. (1) A motion for judicial relief under this chapter must be made to the court in which a proceeding is pending involving a family law dispute subject to arbitration.

(2) On motion of a party, the court may compel arbitration if the parties have entered into an arbitration agreement that complies with section 5 of this act unless the court determines under section 12 of this act that the arbitration should not proceed.

(3) On motion of a party, the court shall terminate arbitration if it determines that:

(a) The agreement to arbitrate is unenforceable;

(b) The family law dispute is not subject to arbitration; or

(c) Under section 12 of this act, the arbitration should not proceed.

(4) Unless prohibited by an arbitration agreement, on motion of a party, the court may order consolidation of separate arbitrations involving the same parties and a common issue of law or fact if necessary for the fair and expeditious resolution of the family law dispute.

NEW SECTION. **Sec. 8.** QUALIFICATION AND SELECTION OF ARBITRATOR. (1) Except as otherwise provided in subsection (2) of this section, unless waived in a record by the parties, an arbitrator must be:

(a) An attorney in good standing admitted to practice in this state, with a minimum of five years of experience practicing family law, which must make up no less than 50 percent of the attorney's practice, or a former judicial officer, including a former pro tem judicial officer; and

(b) Trained in child development, child and juvenile mental health issues, identifying domestic violence and child abuse, and trauma-informed practices. This training must consist of at least seven hours every year. Former judicial officers are not required to receive additional training for one year following the end of their judicial service.

(2) The identification of an arbitrator, arbitration organization, or method of selection of the arbitrator in the arbitration agreement controls.

(3) If an arbitrator is unable or unwilling to act or if the agreed-on method of selecting an arbitrator fails, on motion of a party, the court shall select an arbitrator.

NEW SECTION. **Sec. 9.** DISCLOSURE BY ARBITRATOR; DISQUALIFICATION. (1) Before agreeing to serve as an arbitrator, an individual, after making reasonable inquiry, shall disclose to all parties any known fact a reasonable person would believe is likely to affect:

(a) The impartiality of the arbitrator in the arbitration, including bias, a financial or personal interest in the outcome of the arbitration, or an existing or past relationship with a party, attorney representing a party, or witness; or

(b) The arbitrator's ability to make a timely award.

(2) An arbitrator, the parties, and the attorneys representing the parties have a continuing obligation to disclose to all parties any known fact a reasonable person would believe is likely to affect the impartiality of the arbitrator or the arbitrator's ability to make a timely award.

(3) An objection to the selection or continued service of an arbitrator and a motion for a stay of arbitration and disqualification of the arbitrator must be made under the law and procedural rules of this state other than this chapter governing arbitrator disqualification.

(4) If a disclosure required by subsection (1)(a) or (2) of this section is not made, the court may:

(a) On motion of a party not later than thirty days after the failure to disclose is known or by the exercise of reasonable care should have been known to the party, suspend the arbitration;

(b) On timely motion of a party, vacate an award under section 19(1)(b) of this act; or

(c) If an award has been confirmed, grant other appropriate relief under law of this state other than this chapter.

(5) If the parties agree to discharge an arbitrator or the arbitrator is disqualified, the parties by agreement may select a new arbitrator or request the court to select another arbitrator as provided in section 8 of this act.

NEW SECTION. **Sec. 10.** PARTY PARTICIPATION. (1) A party may:

(a) Be represented in an arbitration by an attorney;

(b) Be accompanied by an individual who will not be called as a witness or act as an advocate; and

(c) Participate in the arbitration to the full extent permitted under the law and procedural rules of this state other than this chapter governing a party's participation in contractual arbitration.

(2) A party or representative of a party may not communicate ex parte with the arbitrator except to the extent allowed in a family law proceeding for communication with a judge.

NEW SECTION. **Sec. 11.** TEMPORARY ORDER OR AWARD. (1) Before an arbitrator is selected and able to act, on motion of a party, the court may enter a temporary order granting any of the relief provided in RCW 26.09.060 and 26.09.197.

(2) After an arbitrator is selected:

(a) The arbitrator may make a temporary award granting any of the relief provided in RCW 26.09.060 and 26.09.197, except for relief pertaining to a protection order as defined in section 12 of this act, in which case the procedures under section 12 of this act apply; and

(b) If the matter is urgent and the arbitrator is not able to act in a timely manner or provide an adequate remedy, on motion of a party, the court may enter a temporary order, pending further hearing by the arbitrator or the court.

(3) On motion of a party, before the court confirms a final award, the court under section 16, 18, or 19 of this act may confirm, correct, vacate, or amend a temporary award made under subsection (2)(a) of this section.

(4) On motion of a party, the court may enforce a subpoena or interim award issued by an arbitrator for the fair and expeditious disposition of the arbitration.

NEW SECTION. **Sec. 12.** PROTECTION OF PARTY OR CHILD. (1) For the purposes of this section, "protection order" means an injunction or other order, issued under the domestic violence, family violence, or stalking laws of the issuing jurisdiction, to prevent an individual from engaging in a violent or threatening act against, harassment of, contact or communication with, or being in physical proximity to another individual who is a party or a child under the custodial responsibility of a party.

(2) If a party is subject to a protection order or has been convicted of a domestic violence offense, including child abuse, or if an arbitrator determines there is a reasonable basis to believe a party's safety or ability to participate effectively in arbitration is at risk, the arbitrator shall stay the arbitration and refer the parties to court. The arbitration may not proceed unless the party at risk affirms the arbitration agreement in a record and the court determines:

(a) The affirmation is informed and voluntary;

(b) Arbitration is not inconsistent with the protection order; and

(c) Reasonable procedures are in place to protect the party from risk of harm, harassment, or intimidation.

(3) This section supplements remedies available under law of this state other than this chapter for the protection of victims of domestic violence, family violence, stalking, harassment, or similar abuse.

NEW SECTION. **Sec. 13.** POWERS AND DUTIES OF ARBITRATOR. (1) An arbitrator shall conduct an arbitration in a manner the arbitrator considers appropriate for a fair and expeditious disposition of the dispute.

(2) An arbitrator shall provide each party a right to be heard and to present evidence material to the family law dispute.

(3) Unless the parties otherwise agree in a record, an arbitrator's powers include the power to:

(a) Select the rules for conducting the arbitration;

(b) Hold conferences with the parties before a hearing;

(c) Determine the date, time, and place of a hearing;

(d) Require a party to provide:

(i) A copy of a relevant court order;

(ii) Information required to be disclosed in a family law proceeding under law of this state other than this chapter; and

(iii) A proposed award that addresses each issue in arbitration;

(e) Appoint a private expert at the expense of the parties;

(f) Administer an oath or affirmation and issue a subpoena for the attendance of a witness or the production of documents and other evidence at a hearing;

(g) Compel discovery concerning the family law dispute and determine the date, time, and place of discovery;

(h) Determine the admissibility and weight of evidence;

(i) Permit deposition of a witness for use as evidence at a hearing;

(j) Issue a protective order to prevent the disclosure of privileged information, confidential information, and other information protected from disclosure as if the controversy were the subject of a civil action in this state;

(k) Appoint an attorney, guardian ad litem, or other representative for a child at the expense of the parties;

(l) Impose a procedure to protect a party or child from risk of harm, harassment, or intimidation;

(m) Allocate arbitration fees, attorneys' fees, expert witness fees, and other costs to the parties; and

(n) Impose a sanction on a party for bad faith or misconduct during the arbitration according to standards governing imposition of a sanction for litigant misconduct in a family law proceeding.

(4) An arbitrator may not allow ex parte communication except to the extent allowed in a family law proceeding for communication with a judge.

NEW SECTION. **Sec. 14.** RECORDING OF HEARING. (1) Except as otherwise provided in subsection (2) of this section or required by law of this state other than this chapter, an arbitration hearing need not be recorded unless required by the arbitrator, provided by the arbitration agreement, or requested by a party.

(2) An arbitrator shall record, electronically or otherwise, any part of an arbitration hearing concerning a child-related dispute.

NEW SECTION. **Sec. 15.** AWARD. (1) An arbitrator shall make an award in a record, dated and signed by the arbitrator. The arbitrator shall give notice of the award to each party by a method agreed on by the parties or, if the parties have not agreed on a method, under the law and procedural rules of this state other than this chapter governing notice in contractual arbitration.

(2) Except as otherwise provided in subsection (3) of this section, the award under this chapter must state the reasons on which it is based unless otherwise agreed by the parties.

(3) An award determining a child-related dispute must state the reasons on which it is based as required by law of this state other than this chapter for a court order in a family law proceeding.

(4) An award under this chapter is not enforceable as a judgment until confirmed under section 16 of this act.

NEW SECTION. **Sec. 16.** CONFIRMATION OF AWARD. (1) After an arbitrator gives notice under section 15(1) of this act of an award, including an award corrected under section 17 of this act, a party may move the court for an order confirming the award.

(2) Except as otherwise provided in subsection (3) of this section, the court shall confirm an award under this chapter if:

(a) The parties agree in a record to confirmation; or

(b) The time has expired for making a motion, and no motion is pending, under section 18 or 19 of this act.

(3) If an award determines a child-related dispute, the court shall confirm the award under subsection (2) of this section if the court finds, after a review of the record if necessary, that the award on its face:

(a) Complies with section 15 of this act and law of this state other than this chapter governing a child-related dispute; and

(b) Is in the best interests of the child.

(4) On confirmation, an award under this chapter is enforceable as a judgment.

NEW SECTION. **Sec. 17.** CORRECTION BY ARBITRATOR OF UNCONFIRMED AWARD. On motion of a party made not later than thirty days after an arbitrator gives notice under section 15(1) of this act of an award, the arbitrator may correct the award:

(1) If the award has an evident mathematical miscalculation or an evident mistake in the description of a person, thing, or property;

(2) If the award is imperfect in a matter of form not affecting the merits on the issues submitted; or

(3) To clarify the award.

NEW SECTION. **Sec. 18.** CORRECTION BY COURT OF UNCONFIRMED AWARD. (1) On motion of a party made not later than ninety days after an arbitrator gives notice under section 15(1) of this act of an award, including an award corrected under section 17 of this act, the court shall correct the award if:

(a) The award has an evident mathematical miscalculation or an evident mistake in the description of a person, thing, or property;

(b) The award is imperfect in a matter of form not affecting the merits of the issues submitted; or

(c) The arbitrator made an award on a dispute not submitted to the arbitrator and the award may be corrected without affecting the merits of the issues submitted.

(2) A motion under this section to correct an award may be joined with a motion to vacate or amend the award under section 19 of this act.

(3) Unless a motion under section 19 of this act is pending, the court may confirm a corrected award under section 16 of this act.

NEW SECTION. **Sec. 19.** VACATION OR AMENDMENT BY COURT OF UNCONFIRMED AWARD. (1) On motion of a party, the court shall vacate an unconfirmed award if the moving party establishes that:

(a) The award was procured by corruption, fraud, or other undue means;

(b) There was:

(i) Evident partiality by the arbitrator;

(ii) Corruption by the arbitrator; or

(iii) Misconduct by the arbitrator substantially prejudicing the rights of a party;

(c) The arbitrator refused to postpone a hearing on showing of sufficient cause for postponement, refused to consider evidence material to the controversy, or otherwise conducted the hearing contrary to section 13 of this act, so as to prejudice substantially the rights of a party;

(d) The arbitrator exceeded the arbitrator's powers;

(e) No arbitration agreement exists, unless the moving party participated in the arbitration without making a motion under section 7 of this act not later than the beginning of the first arbitration hearing; or

(f) The arbitration was conducted without proper notice under section 6 of this act of the initiation of arbitration, so as to prejudice substantially the rights of a party.

(2) Except as otherwise provided in subsection (3) of this section, on motion of a party, the court shall vacate an unconfirmed award that determines a child-related dispute if the moving party establishes that:

(a) The award does not comply with section 15 of this act or law of this state other than this chapter governing a child-related dispute or is contrary to the best interests of the child;

(b) The record of the hearing or the statement of reasons in the award is inadequate for the court to review the award; or

(c) A ground for vacating the award under subsection (1) of this section exists.

(3) If an award is subject to vacation under subsection (2)(a) of this section, on motion of a party, the court may amend the award if amending rather than vacating is in the best interests of the child.

(4) The court may determine a motion under subsection (2) or (3) of this section based on the record of the arbitration hearing and facts occurring after the hearing or may exercise de novo review.

(5) A motion under this section to vacate or amend an award must be filed not later than ninety days:

(a) After an arbitrator gives the party filing the motion notice of the award or a corrected award; or

(b) For a motion under subsection (1)(a) of this section, after the ground of corruption, fraud, or other undue means is known or by the exercise of reasonable care should have been known to the party filing the motion.

(6) If the court under this section vacates an award for a reason other than the absence of an enforceable arbitration agreement, the court may order a rehearing before an arbitrator. If the reason for vacating the award is that the award was procured by corruption, fraud, or other undue means or there was

evident partiality, corruption, or misconduct by the arbitrator, the rehearing must be before another arbitrator.

(7) If the court under this section denies a motion to vacate or amend an award, the court may confirm the award under section 16 of this act unless a motion is pending under section 18 of this act.

NEW SECTION. **Sec. 20.** CLARIFICATION OF CONFIRMED AWARD. If the meaning or effect of an award confirmed under section 16 of this act is in dispute, the parties may:

(1) Agree to arbitrate the dispute before the original arbitrator or another arbitrator; or

(2) Proceed in court under law of this state other than this chapter governing clarification of a judgment in a family law proceeding.

NEW SECTION. **Sec. 21.** JUDGMENT ON AWARD. (1) On granting an order confirming, vacating without directing a rehearing, or amending an award under this chapter, the court shall enter judgment in conformity with the order.

(2) On motion of a party, the court may order that a document or part of the arbitration record be sealed or redacted to prevent public disclosure of all or part of the record or award to the extent permitted under law of this state other than this chapter.

NEW SECTION. **Sec. 22.** MODIFICATION OF CONFIRMED AWARD OR JUDGMENT. If a party requests under law of this state other than this chapter a modification of an award confirmed under section 16 of this act or judgment on the award based on a fact occurring after confirmation:

(1) The parties shall proceed under the dispute resolution method specified in the award or judgment; or

(2) If the award or judgment does not specify a dispute resolution method, the parties may:

(a) Agree to arbitrate the modification before the original arbitrator or another arbitrator; or

(b) Absent agreement, proceed under law of this state other than this chapter governing modification of a judgment in a family law proceeding.

NEW SECTION. **Sec. 23.** ENFORCEMENT OF CONFIRMED AWARD. (1) The court shall enforce an award confirmed under section 16 of this act, including a temporary award, in the manner and to the same extent as any other order or judgment of a court.

(2) The court shall enforce an arbitration award in a family law dispute confirmed by a court in another state in the manner and to the same extent as any other order or judgment from another state.

NEW SECTION. **Sec. 24.** APPEAL. (1) An appeal may be taken under this chapter from:

(a) An order denying a motion to compel arbitration;

(b) An order granting a motion to stay arbitration;

(c) An order confirming or denying confirmation of an award;

(d) An order correcting an award;

(e) An order vacating an award without directing a rehearing; or

(f) A final judgment.

(2) An appeal under this section may be taken as from an order or a judgment in a civil action.

NEW SECTION. **Sec. 25.** IMMUNITY OF ARBITRATOR. (1) An arbitrator or arbitration organization acting in that capacity in a family law dispute is immune from civil liability to the same extent as a judge of a court of this state acting in a judicial capacity.

(2) The immunity provided by this section supplements any immunity under law of this state other than this chapter.

(3) An arbitrator's failure to make a disclosure required by section 9 of this act does not cause the arbitrator to lose immunity under this section.

(4) An arbitrator is not competent to testify, and may not be required to produce records, in a judicial, administrative, or similar proceeding about a statement, conduct, decision, or ruling occurring during an arbitration, to the same extent as a judge of a court of this state acting in a judicial capacity. This subsection does not apply:

(a) To the extent disclosure is necessary to determine a claim by the arbitrator or arbitration organization against a party to the arbitration; or

(b) To a hearing on a motion under section 19(1)(a) or (b) to vacate an award, if there is prima facie evidence that a ground for vacating the award exists.

(5) If a person commences a civil action against an arbitrator arising from the services of the arbitrator or seeks to compel the arbitrator to testify or produce records in violation of subsection (4) of this section and the court determines that the arbitrator is immune from civil liability or is not competent to testify or required to produce the records, the court shall award the arbitrator reasonable attorneys' fees, costs, and reasonable expenses of litigation.

NEW SECTION. **Sec. 26.** UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

NEW SECTION. **Sec. 27.** RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This chapter modifies, limits, or supersedes the electronic signatures in global and national commerce act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

NEW SECTION. **Sec. 28.** TRANSITIONAL PROVISION. This chapter applies to arbitration of a family law dispute under an arbitration agreement made on or after the effective date of this section. If an arbitration agreement was made before the effective date of this section, the parties may agree in a record that this chapter applies to the arbitration.

NEW SECTION. **Sec. 29.** EFFECTIVE DATE. This act takes effect January 1, 2024.

NEW SECTION. **Sec. 30.** Sections 1 through 29 of this act constitute a new chapter in Title 26 RCW.

Passed by the House February 27, 2023.
Passed by the Senate March 31, 2023.
Approved by the Governor April 13, 2023.

Filed in Office of Secretary of State April 13, 2023.

CHAPTER 62

[House Bill 1100]

DISPOSITION OF REMAINS—INDIGENT COUNTY RESIDENTS

AN ACT Relating to the disposition of the remains of a county resident who dies indigent in an adjacent county outside of Washington; and amending RCW 36.39.030.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 36.39.030 and 1963 c 4 s 36.39.030 are each amended to read as follows:

The board of county commissioners of any county shall provide for the disposition of the remains of any indigent person including a recipient of public assistance who dies within the county and whose body is unclaimed by relatives or church organization. The board of county commissioners of any county may provide for the disposition of the remains of an indigent resident of the county who dies in an adjacent county not in Washington state.

Passed by the House February 9, 2023.
Passed by the Senate March 29, 2023.
Approved by the Governor April 13, 2023.
Filed in Office of Secretary of State April 13, 2023.

CHAPTER 63

[Substitute House Bill 1784]

FOOD ASSISTANCE PROGRAMS—APPROPRIATIONS

AN ACT Relating to addressing hunger relief; creating new sections; making appropriations; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** Appropriations in this act are for the fiscal biennium ending June 30, 2023.

NEW SECTION. **Sec. 2.** The legislature recognizes that food insecurity has many negative impacts on health and well-being. Throughout the COVID-19 pandemic, the legislature has prioritized meeting people's basic needs, including investing in getting fresh food from Washington farmers to families, expanding the community eligibility provision so thousands of low-income students can enjoy healthy nutritious meals, providing additional funding for seniors to spend at local farmers markets, and supporting the emergency food system.

The legislature finds that even prior to the COVID-19 pandemic, one in 10 Washington households were food insecure. Food insecurity rates rose when the pandemic began and have remained high, especially for those with very low incomes, Black and Hispanic households, families with children, young adults, and military veterans.

The legislature further finds that the cost of food and fuel has increased significantly in the past year. Supply challenges and food prices affect consumers and businesses alike, and this is simultaneously affecting low-income people and the emergency food system that is intended to respond to rising need.

The legislature further finds that many of the worst impacts of high food prices and economic instability have been avoided by increased federal support for the basic food program. Recent congressional action ends additional emergency allotments to basic food after February 2023, resulting in a loss of $93 million per month in federal food assistance to Washington households living at or below the federal poverty line. Low-income households most likely to experience the largest loss of basic food benefits are seniors, people with disabilities, families with children, and single adult men.

The legislature intends to provide support to people who are most impacted by the loss of basic food, from young children to seniors. This includes providing funding to support food banks to provide emergency food supplies to families, increases in the fruit and vegetable incentive program that helps families stretch their basic food dollars further, and senior nutrition programs that provide meals to people who might otherwise go hungry.

NEW SECTION. **Sec. 3. FOR THE DEPARTMENT OF AGRICULTURE—FOOD ASSISTANCE PROGRAM**

General Fund—State Appropriation (FY 2023) $20,000,000
TOTAL APPROPRIATION $20,000,000

The appropriation in this section is subject to the following conditions and limitations: $20,000,000 of the general fund—state appropriation for fiscal year 2023 is provided solely for the department to provide grants to hunger relief organizations to achieve food security within the state such as the purchase of food and supplies; investment in storage capacity; management of operations, facilities, employees, and volunteers; conducting social service outreach to food recipients; or conducting any other activity that is necessary to help achieve food security for the public.

NEW SECTION. **Sec. 4. FOR THE DEPARTMENT OF HEALTH**

General Fund—State Appropriation (FY 2023) $2,000,000
TOTAL APPROPRIATION $2,000,000

The appropriation in this section is subject to the following conditions and limitations: $2,000,000 of the general fund—state appropriation for fiscal year 2023 is provided solely for the fruit and vegetable incentives program.

NEW SECTION. **Sec. 5. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—AGING AND ADULT SERVICES PROGRAM**

General Fund—State Appropriation (FY 2023) $6,000,000
TOTAL APPROPRIATION $6,000,000

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for senior nutrition services programs operated by area agencies on aging to provide nutrition services for seniors, prioritizing services for those who have been most impacted by the loss of federal resources under the supplemental nutrition assistance program that were provided during the COVID-19 pandemic. The funding may also be used for outreach activities to target the populations most impacted.

NEW SECTION. **Sec. 6.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of

federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

NEW SECTION. **Sec. 7.** 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.

Passed by the House February 27, 2023.
Passed by the Senate March 29, 2023.
Approved by the Governor April 13, 2023.
Filed in Office of Secretary of State April 13, 2023.

CHAPTER 64

[House Bill 1120]

INSURANCE PRODUCERS—ANNUITY TRANSACTIONS—BEST INTEREST STANDARD

AN ACT Relating to the best interest standard for annuities in Washington; amending RCW 48.23.015; adding a new section to chapter 48.23 RCW; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 48.23 RCW to read as follows:

The purpose of this act is to require producers, as defined in RCW 48.23.015, to act in the best interest of the consumer when making a recommendation of an annuity and to require insurers to establish and maintain a system to supervise recommendations so that the insurance needs and financial objectives of consumers at the time of the transaction are effectively addressed.

Sec. 2. RCW 48.23.015 and 2009 c 18 s 2 are each amended to read as follows:

(1) This section applies to any sale or recommendation of an annuity.

(2) For the purposes of this section:

(a) "Annuity" means a fixed annuity or variable annuity that is individually solicited, whether the product is classified as an individual or group annuity.

(b) "Cash compensation" means any discount, concession, fee, service fee, commission, sales charge, loan, override, or cash benefit received by a producer in connection with the recommendation or sale of an annuity from an insurer, intermediary, or directly from the consumer.

(c) "Consumer profile information" means information that is reasonably appropriate to determine whether a recommendation addresses the consumer's financial situation, insurance needs, and financial objectives including, at a minimum, the following:

(i) Age;

(ii) Annual income;

(iii) Financial situation and needs, including debts and other obligations;

(iv) Financial experience;

(v) Insurance needs;

(vi) Financial objectives;

(vii) Intended use of the annuity;

(viii) Financial time horizon;

(ix) Existing assets or financial products, including investment, annuity, and insurance holdings;

(x) Liquidity needs;

(xi) Liquid net worth;

(xii) Risk tolerance including, but not limited to, willingness to accept nonguaranteed elements in the annuity;

(xiii) Financial resources used to fund the annuity; and

(xiv) Tax status.

(d) "FINRA" means the financial industry regulatory authority or a successor agency.

(e) "Insurer" means a company required to be authorized under the laws of this state to provide insurance products, including annuities.

(f) "Intermediary" means an entity contracted directly with an insurer or with another entity contracted with an insurer to facilitate the sale of the insurer's annuities by producers.

(g) "Material conflict of interest" means a financial interest of the producer in the sale of an annuity that a reasonable person would expect to influence the impartiality of a recommendation. "Material conflict of interest" does not include cash compensation or noncash compensation.

(h) "Noncash compensation" means any form of compensation that is not cash compensation including, but not limited to, health insurance, office rent, office support, and retirement benefits.

(i) "Nonguaranteed elements" means the premiums, credited interest rates including any bonuses, benefits, values, dividends, noninterest based credits, charges, or elements of formulas used to determine any of these, that are subject to company discretion and are not guaranteed at issue. An element is considered nonguaranteed if any of the underlying nonguaranteed elements are used in its calculation.

(j) "Producer" has the same meaning as "insurance producer" in RCW 48.17.010 and also includes an insurer where no producer is involved.

(k) "Recommendation" means advice provided by ((~~an insurance~~)) a producer((~~, or an insurer when no producer is involved,~~)) to an individual consumer that ((~~results~~)) was intended to or does result in a purchase ((~~or~~)), an exchange, or a replacement of an annuity in accordance with that advice.

(((~~(2) Insurers and insurance producers must comply with the following requirements in recommending and executing a purchase or exchange of an annuity:~~

~~(a) In recommending the purchase of an annuity or the exchange of an annuity that results in another insurance transaction or series of insurance transactions to a consumer, the insurance producer, or the insurer when no producer is involved, must have reasonable grounds for believing that the recommendation is suitable for the consumer on the basis of the facts disclosed by the consumer about their investments and other insurance products and as to their financial situation and needs.~~

~~(b) Prior to the execution of a purchase or exchange of an annuity resulting from a recommendation, an insurance producer, or an insurer when no producer is involved, shall make reasonable efforts to obtain information concerning:~~

~~(i) The consumer's financial status;~~

~~(ii) The consumer's tax status;~~

~~(iii) The consumer's investment objectives; and~~

~~(iv) Other information used or considered to be reasonable by the insurance producer, or the insurer when no producer is involved, in making recommendations to the consumer.~~

~~(3) An insurer or insurance producer's recommendation~~)) "Recommendation" does not include general communication to the public, generalized customer services assistance or administrative support, general educational information and tools, prospectuses, or other product and sales material.

(l) "Replacement" means a transaction in which a new annuity is to be purchased, and it is known or should be known to the proposing producer or proposing insurer, whether or not a producer is involved, that by reason of the transaction, an existing annuity or other insurance policy has been or is to be any of the following:

(i) Lapsed, forfeited, surrendered or partially surrendered, assigned to the replacing insurer, or otherwise terminated;

(ii) Converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values;

(iii) Amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid;

(iv) Reissued with any reduction in cash value; or

(v) Used in a financed purchase.

(m) "SEC" means the United States securities and exchange commission.

(3) Best interest obligations. A producer, when making a recommendation of an annuity, shall act in the best interest of the consumer under the circumstances known at the time the recommendation is made, without placing the producer's or the insurer's financial interest ahead of the consumer's interest. A producer has acted in the best interest of the consumer if they have satisfied the obligations in this subsection regarding care, disclosure, conflict of interest, and documentation.

(a) Care obligation.

(i) The producer, in making a recommendation shall exercise reasonable diligence, care, and skill to:

(A) Know the consumer's financial situation, insurance needs, and financial objectives;

(B) Understand the available recommendation options after making a reasonable inquiry into options available to the producer;

(C) Have a reasonable basis to believe the recommended option effectively addresses the consumer's financial situation, insurance needs, and financial objectives over the life of the product, as evaluated in light of the consumer profile information; and

(D) Communicate the basis or bases of the recommendation.

(ii) The requirements under (a)(i) of this subsection include making reasonable efforts to obtain consumer profile information from the consumer prior to the recommendation of an annuity.

(iii) The requirements under (a)(i) of this subsection require a producer to consider the types of products the producer is authorized and licensed to recommend or sell that address the consumer's financial situation, insurance needs, and financial objectives. This does not require analysis or consideration of any products outside the authority and license of the producer or other possible alternative products or strategies available in the market at the time of the recommendation. Producers shall be held to standards applicable to producers with similar authority and licensure.

(iv) The requirements under this subsection do not create a fiduciary obligation or relationship and only create a regulatory obligation as established in this section.

(v) The consumer profile information, characteristics of the insurer, and product costs, rates, benefits, and features are those factors generally relevant in making a determination whether an annuity effectively addresses the consumer's financial situation, insurance needs, and financial objectives, but the level of importance of each factor under the care obligation of this section may vary depending on the facts and circumstances of a particular case. However, each factor may not be considered in isolation.

(vi) The requirements under (a)(i) of this subsection include having a reasonable basis to believe the consumer would benefit from certain features of the annuity, such as annuitization, death or living benefit, or other insurance-related features.

(vii) The requirements under (a)(i) of this subsection apply to the particular annuity as a whole and the underlying subaccounts to which funds are allocated at the time of purchase or exchange of an annuity, and riders and similar producer enhancements, if any.

(viii) The requirements under (a)(i) of this subsection do not mean the annuity with the lowest one-time or multiple occurrence compensation structure shall necessarily be recommended.

(ix) The requirements under (a)(i) of this subsection do not mean the producer has ongoing monitoring obligations under the care obligation under this section, although such an obligation may be separately owed under the terms of a fiduciary, consulting, investment advising, or financial planning agreement between the consumer and the producer.

(x) In the case of an exchange or replacement of an annuity, the producer shall consider the whole transaction, which includes taking into consideration whether:

(A) The consumer will incur a surrender charge, be subject to the commencement of a new surrender period, lose existing benefits, such as death, living, or other contractual benefits, or be subject to increased fees, investment advisory fees, or charges for riders and similar product enhancements;

(B) The replacing product would substantially benefit the consumer in comparison to the replaced product over the life of the product; and

(C) The consumer has had another annuity exchange or replacement and, in particular, an exchange or replacement within the preceding 60 months.

(xi) Nothing in this section should be construed to require a producer to obtain any license other than a producer license with the appropriate line of authority to sell, solicit, or negotiate insurance in this state, including but not limited to any securities license, in order to fulfill the duties and obligations

contained in this section; provided the producer does not give advice or provide services that are otherwise subject to securities laws or engage in any other activity requiring other professional licenses.

(b) Disclosure obligation.

(i) Prior to the recommendation or sale of an annuity, the producer shall prominently disclose to the consumer on a form substantially similar to appendix A, as published on the commissioner's website:

(A) A description of the scope and terms of the relationship with the consumer and the role of the producer in the transaction;

(B) An affirmative statement on whether the producer is licensed and authorized to sell the following products:

(I) Fixed annuities;

(II) Fixed indexed annuities;

(III) Variable annuities;

(IV) Life insurance;

(V) Mutual funds;

(VI) Stocks and bonds; and

(VII) Certificates of deposit;

(C) An affirmative statement describing the insurers the producer is authorized, contracted, appointed, or otherwise able to sell insurance products for, using the following descriptions:

(I) From one insurer;

(II) From two or more insurers; or

(III) From two or more insurers although primarily contracted with one insurer;

(D) A description of the sources and types of cash compensation and noncash compensation to be received by the producer, including whether the producer is to be compensated for the sale of a recommended annuity by commission as part of premium or other remuneration received from the insurer, intermediary, or other producer or by fee as a result of a contract for advice or consulting services; and

(E) A notice of the consumer's right to request additional information regarding cash compensation described in this subsection (3)(b);

(ii) Upon request of the consumer or the consumer's designated representative, the producer shall disclose:

(A) A reasonable estimate of the amount of cash compensation to be received by the producer, which may be stated as a range of amounts or percentages; and

(B) Whether the cash compensation is a one-time or multiple occurrence amount, and if a multiple occurrence amount, the frequency and amount of the occurrence, which may be stated as a range of amounts or percentages; and

(iii) Prior to or at the time of the recommendation or sale of an annuity, the producer shall have a reasonable basis to believe the consumer has been informed of various features of the annuity, such as the potential surrender period and surrender charge, potential tax penalty if the consumer sells, exchanges, surrenders, or annuitizes the annuity, mortality and expense fees, investment advisory fees, any annual fees, potential charges for and features of riders or other options of the annuity, limitations on interest returns, potential

changes in nonguaranteed elements of the annuity, insurance and investment components, and market risk.

(c) Conflict of interest obligation. A producer shall identify and avoid or reasonably manage and disclose material conflicts of interest, including material conflicts of interest related to an ownership interest.

(d) Documentation obligation. A producer shall at the time of recommendation or sale:

(i) Make a written record of any recommendation and the basis for the recommendation subject to this section;

(ii) Obtain a consumer signed statement on a form substantially similar to appendix B as published on the commissioner's website documenting:

(A) A customer's refusal to provide the consumer profile information, if any; and

(B) A customer's understanding of the ramifications of not providing his or her consumer profile information or providing insufficient consumer profile information; and

(iii) Obtain a consumer signed statement on a form substantially similar to appendix C as published on the commissioner's website acknowledging the annuity transaction is not recommended if a customer decides to enter into an annuity transaction that is not based on the producer's recommendation.

(e) Application of the best interest obligation. Any requirement applicable to a producer under this subsection shall apply to every producer who has exercised material control or influence in the making of a recommendation and has received direct compensation as a result of the recommendation or sale, regardless of whether the producer has had any direct contact with the consumer. Activities such as providing or delivering marketing or educational materials, product wholesaling, or other back office product support, and general supervision of a producer do not, in and of themselves, constitute material control or influence.

(4) Transactions not based on a recommendation.

(a) Except as provided under (b) of this subsection, a producer shall have no obligation to a consumer under subsection (3)(a) of this section related to any annuity transaction if:

(i) No recommendation is made;

(ii) A recommendation was made and was later found to have been prepared based on materially inaccurate information provided by the consumer;

(iii) A consumer refuses to provide relevant consumer profile information and the annuity transaction is not recommended; or

(iv) A consumer decides to enter into an annuity transaction that is not based on a recommendation of the producer.

(b) An insurer's issuance of an annuity subject to (a) of this subsection must be reasonable under all the circumstances actually known to the insurer ((~~or insurance producer~~)) at the time ((~~of the recommendation. Neither an insurance producer nor an insurer when no producer is involved, has any obligation to a consumer under subsection (2) of this section related to any recommendation if a consumer:~~

~~(a) Refuses to provide relevant information requested by the insurer or insurance producer;~~

~~(b) Decides to enter into an insurance transaction that is not based on a recommendation of the insurer or insurance producer; or~~

~~(c) Fails to provide complete or accurate information.~~

~~(4)~~)) the annuity is issued.

(5) Supervision system.

(a) Except as permitted under subsection (4) of this section, an insurer may not issue an annuity recommended to a consumer unless there is a reasonable basis to believe the annuity would effectively address the particular consumer's financial situation, insurance needs, and financial objectives based on the consumer's consumer profile information.

(b) An insurer must ((~~assure that a system to supervise recommendations,~~)) establish and maintain a supervision system that is reasonably designed to achieve the insurer's and the producer's compliance with this section((~~, is established and maintained. The system must include, but is not limited to, written procedures and conducting periodic review of its records that are reasonably designed to assist in detecting and preventing violations of this section~~)).

(((~~(a)~~))) (c) An insurer may contract with a third party, including ((~~insurance~~)) producers, a general agent, or independent agency, to establish and maintain a system of supervision as required in this subsection with respect to ((~~insurance~~)) producers under contract with or employed by the third party. An insurer must make reasonable inquiry to assure that the third party is performing the functions required in this subsection and must take action as is reasonable under the circumstances to enforce the contractual obligation to perform the functions. An insurer may comply with its obligation to make reasonable inquiry by doing all of the following:

(i) Annually obtaining a certification from a third party senior manager with responsibility for the delegated functions that the manager has a reasonable basis to represent, and does represent, that the third party is performing the required functions; and

(ii) Based on reasonable selection criteria, periodically selecting third parties contracting under this subsection for a review to determine whether the third parties are performing the required functions. The insurer shall perform those procedures to conduct the review that are reasonable under the circumstances.

(((~~(b)~~))) (d) An insurer, or the contracted third party if a general agent or independent agency, is not required to:

(i) Review, or provide for review of, all ((~~insurance~~)) producer solicited transactions; or

(ii) Include in its system of supervision ((~~an insurance~~)) a producer's recommendations to consumers of products other than the annuities offered by the insurer, general agent, or independent agency.

(((~~(c)~~))) (e) A general agent or independent agency contracting with an insurer to supervise compliance with this section shall promptly, when requested by the insurer, give a certification of compliance or give a clear statement that it is unable to meet the certification criteria. A person may not provide a certification unless the person:

(i) Is a senior manager with responsibility for the delegated functions; and

(ii) Has a reasonable basis for making the certification.

(((~~(5) Compliance with the financial industry regulatory authority conduct rules pertaining to suitability satisfies the requirements under this section for the recommendation of annuities registered under the securities act of 1933 (15 U.S.C. Sec. 77(a) et seq. or as hereafter amended). The insurance commissioner must notify the appropriate committees of the house of representatives and senate if there are changes regarding the registration of annuities under the securities act of 1933 that affect the application of this subsection. This~~)) (6) Safe harbor.

(a) Recommendations and sales of annuities made in compliance with comparable standards shall satisfy the requirements under this section. This subsection applies to recommendations and sales of annuities made by financial professionals in compliance with business rules, controls, and procedures that satisfy a comparable standard even if such a standard would not otherwise apply to the product or recommendation at issue. However, nothing in this subsection ((~~does not~~)) shall limit the insurance commissioner's ability to investigate and enforce the provisions of this section.

(((~~(6) The~~)) (b) Nothing in (a) of this subsection shall limit the insurer's obligation to comply with subsection (5)(a) of this section, although the insurer may base its analysis on information received from either the financial professional or the entity supervising the financial professional.

(c) For (a) of this subsection to apply, an insurer shall:

(i) Monitor the relevant conduct of the financial professional seeking to rely on (a) of this subsection or the entity responsible for supervising the financial professional, such as the financial professional's broker-dealer or an investment adviser registered under federal or state securities laws using information collected in the normal course of an insurer's business; and

(ii) Provide to the entity responsible for supervising the financial professional seeking to rely on (a) of this subsection, such as the financial professional's broker-dealer or investment adviser registered under federal or state securities laws, information and reports that are reasonably appropriate to assist such entity to maintain its supervision system.

(d) For purposes of this subsection, "financial professional" means a producer that is regulated and acting as:

(i) A broker-dealer registered under federal or state securities laws or a registered representative of a broker-dealer;

(ii) An investment adviser registered under federal or state securities laws or an investment adviser representative associated with the federal or state registered investment adviser; or

(iii) A plan fiduciary under section 3(21) of the employee retirement income security act of 1974 (ERISA) or fiduciary under section 4975(e)(3) of the internal revenue code (IRC) or any amendments or successor statutes thereto.

(e) For purposes of this subsection, "comparable standards" means:

(i) With respect to broker-dealers and registered representatives of broker-dealers, applicable SEC and FINRA rules pertaining to best interest obligations and supervision of annuity recommendations and sales including, but not limited to, regulation best interest and any amendments or successor regulations thereto;

(ii) With respect to investment advisers registered under federal or state securities laws or investment adviser representatives, the fiduciary duties and all other requirements imposed on such investment advisers or investment adviser

representatives by contract or under the investment advisers act of 1940 or applicable state securities law including, but not limited to, the Form ADV and interpretations; and

(iii) With respect to plan fiduciaries or fiduciaries, the duties, obligations, prohibitions, and all other requirements attendant to such status under ERISA or the IRC and any amendments or successor statutes thereto.

(7) An insurer is responsible for compliance with this section. If a violation occurs, either because of the action or inaction of the insurer or its producer, the commissioner may order ((~~an~~)):

(a) An insurer((~~, an insurance producer, or both,~~)) to take reasonably appropriate corrective action for any consumer harmed by ((~~the insurer's or insurance producer's violation of this section.~~

~~(a)~~)) a failure to comply with this act by the insurer, an entity contracted to perform the insurer's supervisory duties, or by the producer;

(b) A general agency, independent agency, or the producer to take reasonably appropriate corrective action for any consumer harmed by the producer's violation of this section; and

(c) Appropriate penalties and sanctions.

(8) Any applicable penalty under this or other sections of Title 48 RCW may be reduced or eliminated by the commissioner if corrective action for the consumer was taken promptly after a violation was discovered or the violation was not part of a pattern or practice. (((~~b~~))) This subsection does not limit the commissioner's ability to enforce this section or other applicable sections of Title 48 RCW.

(((~~7~~))) (9) The authority to enforce compliance with this section is vested exclusively with the commissioner.

(10) Insurers, general agents, independent agencies, and ((~~insurance~~)) producers must maintain or be able to make available to the commissioner records of the information collected from the consumer, disclosures made to the consumer, including summaries of oral disclosures, and other information used in making the recommendations that were the basis for the insurance transaction for five years after the insurance transaction is completed by the insurer((~~, or for five years after the annuity begins paying benefits, whichever is longer~~)). An insurer is permitted, but is not required, to maintain documentation on behalf of ((~~an insurance~~)) a producer. This section does not relieve ((~~an insurance~~)) a producer of the obligation to maintain records of insurance transactions as required by RCW 48.17.470.

(((~~8~~))) (11) Records required to be maintained by this regulation may be maintained in paper, photographic, microprocess, magnetic, mechanical, or electronic media or by any process that accurately reproduces the actual document.

(12) The commissioner may adopt rules to implement and administer this section.

(((~~9~~))) (13) Unless otherwise specifically included, this section does not apply to recommendations involving:

(a) Direct response solicitations when there is no recommendation based on information collected from the consumer under this section; ((~~or~~))

(b) Contracts used to fund:

(i) An employee pension or welfare benefit plan that is covered by the employment and income security act;

(ii) A plan described by sections 401(a), 401(k), 403(b), 408(k), or 408(p) of the internal revenue code, as amended, if established or maintained by an employer;

(iii) A government or church plan defined in section 414 of the internal revenue code, a government or church welfare benefit plan or a deferred compensation plan of a state or local government or tax exempt organization under section 457 of the internal revenue code; or

(iv) A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;

(((~~(v)~~))) (c) Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or

(((~~(vi)~~))) (d) Formal prepaid funeral contracts.

(((~~(10)~~))) (14) This section does not affect the application of chapter 21.20 RCW.

(15) Nothing in this section shall be construed to create or imply a private cause of action for a violation of this section or to subject a producer to civil liability under the best interest standard of care outlined in subsection (3) of this section or under standards governing the conduct of a fiduciary or a fiduciary relationship.

NEW SECTION. **Sec. 3.** This act takes effect January 1, 2024.

Passed by the House February 2, 2023.
Passed by the Senate March 29, 2023.
Approved by the Governor April 13, 2023.
Filed in Office of Secretary of State April 13, 2023.

CHAPTER 65

[Substitute House Bill 1165]

UNIFORM CIVIL REMEDIES FOR UNAUTHORIZED DISCLOSURE OF INTIMATE IMAGES ACT

AN ACT Relating to civil remedies for unauthorized disclosure of intimate images; adding a new chapter to Title 7 RCW; creating a new section; repealing RCW 4.24.795; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** This act may be known and cited as the uniform civil remedies for unauthorized disclosure of intimate images act.

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

(1) "Consent" means affirmative, conscious, and voluntary authorization by an individual with legal capacity to give authorization.

(2) "Depicted individual" means an individual whose body is shown in whole or in part in an intimate image.

(3) "Disclosing" has the same meaning as provided in RCW 9A.86.010. "Disclosure" has the same meaning as "disclosing."

(4) "Identifiable" means recognizable by a person other than the depicted individual:

(a) From an intimate image itself; or

(b) From an intimate image and identifying characteristic displayed in connection with the intimate image.

(5) "Identifying characteristic" means information that may be used to identify a depicted individual.

(6) "Individual" means a human being.

(7) "Intimate image" has the same meaning as provided in RCW 9A.86.010.

(8) "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency or instrumentality, or other legal entity.

NEW SECTION. **Sec. 3.** (1) For the purposes of this section:

(a) "Harm" includes physical harm, economic harm, and emotional distress whether or not accompanied by physical or economic harm.

(b) "Private" means:

(i) Created or obtained under circumstances in which a depicted individual had a reasonable expectation of privacy; or

(ii) Made accessible through theft, bribery, extortion, fraud, false pretenses, voyeurism, or exceeding authorized access to an account, message, file, device, resource, or property.

(2) Except as otherwise provided in section 4 of this act, a depicted individual who is identifiable and who suffers harm from a person's intentional disclosure or threatened disclosure of an intimate image that was private without the depicted individual's consent has a cause of action against the person if the person knew or acted with reckless disregard for whether:

(a) The depicted individual did not consent to the disclosure;

(b) The intimate image was private; and

(c) The depicted individual was identifiable.

(3) The following conduct by a depicted individual does not establish by itself that the individual consented to the disclosure of the intimate image which is the subject of an action under this act or that the individual lacked a reasonable expectation of privacy:

(a) Consent to creation of the image; or

(b) Previous consensual disclosure of the image.

(4) A depicted individual who does not consent to the uncovering of the part of the body depicted in an intimate image of the individual retains a reasonable expectation of privacy even if the image was created when the individual was in a public place.

NEW SECTION. **Sec. 4.** (1) For the purposes of this section:

(a) "Child" means an unemancipated individual who is less than 18 years of age.

(b) "Parent" has the same meaning as provided in RCW 26.26A.010.

(2) A person is not liable under this act if the person proves that disclosure of, or a threat to disclose, an intimate image was:

(a) Made in good faith in:

(i) Law enforcement activities;

(ii) A legal proceeding; or

(iii) Medical education or treatment;

(b) Made in good faith in the reporting or investigation of:

(i) Unlawful conduct; or

(ii) Unsolicited and unwelcome conduct;

(c) Related to a matter of public concern or public interest; or

(d) Reasonably intended to assist the depicted individual.

(3) Subject to subsection (4) of this section, a defendant who is a parent, legal guardian, or individual with legal custody of a child is not liable under this act for a disclosure or threatened disclosure of an intimate image, as defined in section 2(7) of this act, of the child.

(4) If a defendant asserts an exception to liability under subsection (3) of this section, the exception does not apply if the plaintiff proves the disclosure was:

(a) Prohibited by law other than this act; or

(b) Made for the purpose of sexual arousal, sexual gratification, humiliation, degradation, or monetary or commercial gain.

(5) Disclosure of, or a threat to disclose, an intimate image is not a matter of public concern or public interest solely because the depicted individual is a public figure.

NEW SECTION. **Sec. 5.** In an action under this act a plaintiff may proceed using a pseudonym in place of the true name of the plaintiff under applicable state law or procedural rule.

NEW SECTION. **Sec. 6.** (1) In an action under this act, a prevailing plaintiff may recover:

(a) The greater of:

(i) Economic and noneconomic damages proximately caused by the defendant's disclosure or threatened disclosure, including damages for emotional distress whether or not accompanied by other damages; or

(ii) Statutory damages not to exceed $10,000 against each defendant found liable under this act for all disclosures and threatened disclosures by the defendant of which the plaintiff knew or reasonably should have known when filing the action or which became known during the pendency of the action. In determining the amount of statutory damages under this subsection (1)(a)(ii), consideration must be given to the age of the parties at the time of the disclosure or threatened disclosure, the number of disclosures or threatened disclosures made by the defendant, the breadth of distribution of the image by the defendant, and other exacerbating or mitigating factors;

(b) An amount equal to any monetary gain made by the defendant from disclosure of the intimate image; and

(c) Punitive damages in an amount not to exceed three times the amount of damages under (a) of this subsection.

(2) In an action under this act, the court may award a prevailing plaintiff:

(a) Reasonable attorneys' fees and costs; and

(b) Additional relief, including injunctive relief.

(3) This act does not affect a right or remedy available under law of this state other than this act.

NEW SECTION. **Sec. 7.** (1) An action under section 3(2) of this act for:

(a) An unauthorized disclosure may not be brought later than four years from the date the disclosure was discovered or should have been discovered with the exercise of reasonable diligence; and

(b) A threat to disclose may not be brought later than four years from the date of the threat to disclose.

(2) Except as otherwise provided in subsection (3) of this section, this section is subject to the tolling statutes of this state.

(3) In an action under section 3(2) of this act by a depicted individual who was a minor on the date of the disclosure or threat to disclose, the time specified in subsection (1)(a) of this section does not begin to run until the depicted individual attains the age of majority.

NEW SECTION. **Sec. 8.** This act must be construed to be consistent with the communications decency act of 1996, 47 U.S.C. Sec. 230.

NEW SECTION. **Sec. 9.** In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

NEW SECTION. **Sec. 10.** 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 held invalid.

NEW SECTION. **Sec. 11.** RCW 4.24.795 (Distribution of intimate images—Liability for damages, other civil penalties—Confidentiality of the plaintiff) and 2015 2nd sp.s. c 8 s 1 are each repealed.

NEW SECTION. **Sec. 12.** The repeal in section 11 of this act does not affect any existing right acquired or liability or obligation incurred under RCW 4.24.795 or under any rule or order adopted under that section, nor does it affect any proceeding instituted under that section.

NEW SECTION. **Sec. 13.** Sections 1 through 9 of this act constitute a new chapter in Title 7 RCW.

Passed by the House February 2, 2023.
Passed by the Senate March 31, 2023.
Approved by the Governor April 13, 2023.
Filed in Office of Secretary of State April 13, 2023.

CHAPTER 66

[Engrossed House Bill 1209]

CONTROLLED SUBSTANCES—TABLETING AND ENCAPSULATING MACHINES

AN ACT Relating to restricting the possession, purchase, delivery, and sale of certain equipment used to illegally process controlled substances; amending RCW 9.94A.518; adding a new section to chapter 69.50 RCW; creating a new section; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

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

(1) It is unlawful for any person to possess, purchase, deliver, sell, or possess with intent to sell a tableting machine or encapsulating machine knowing, or under circumstances where one reasonably should know, that it will be used to manufacture, compound, convert, produce, process, prepare, or otherwise introduce into the human body a controlled substance, other than cannabis, in violation of this chapter.

(2) Any person who violates this section is guilty of a class C felony.

(3) For the purposes of this section:

(a) "Encapsulating machine" means manual, semiautomatic, or fully automatic equipment that can be used to fill shells or capsules with powdered or granular solids or semisolid material to produce coherent solid contents.

(b) "Tableting machine" means manual, semiautomatic, or fully automatic equipment that can be used to compact, compress, or mold powdered or granular solids or semisolid material to produce fused coherent solid tablets.

Sec. 2. RCW 9.94A.518 and 2022 c 16 s 5 are each amended to read as follows:

TABLE 4

DRUG OFFENSES
INCLUDED WITHIN EACH
SERIOUSNESS LEVEL

III	Any felony offense under chapter 69.50 RCW with a deadly weapon special verdict under RCW 9.94A.825
	Controlled Substance Homicide (RCW 69.50.415)
	Delivery of imitation controlled substance by person eighteen or over to person under eighteen (RCW 69.52.030(2))
	Involving a minor in drug dealing (RCW 69.50.4015)
	Manufacture of methamphetamine (RCW 69.50.401(2)(b))
	Over 18 and deliver heroin, methamphetamine, a narcotic from Schedule I or II, or flunitrazepam from Schedule IV to someone under 18 (RCW 69.50.406)
	Over 18 and deliver narcotic from Schedule III, IV, or V or a nonnarcotic, except flunitrazepam or methamphetamine, from Schedule I-V to someone under 18 and 3 years junior (RCW 69.50.406)
	Possession of Ephedrine, Pseudoephedrine, or Anhydrous Ammonia with intent to manufacture methamphetamine (RCW 69.50.440)

	DRUG OFFENSES INCLUDED WITHIN EACH SERIOUSNESS LEVEL
	Selling for profit (controlled or counterfeit) any controlled substance (RCW 69.50.410)
II	Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.4011)
	Deliver or possess with intent to deliver methamphetamine (RCW 69.50.401(2)(b))
	Delivery of a material in lieu of a controlled substance (RCW 69.50.4012)
	Maintaining a Dwelling or Place for Controlled Substances (RCW 69.50.402(1)(f))
	Manufacture, deliver, or possess with intent to deliver amphetamine (RCW 69.50.401(2)(b))
	Manufacture, deliver, or possess with intent to deliver narcotics from Schedule I or II or flunitrazepam from Schedule IV (RCW 69.50.401(2)(a))
	Manufacture, deliver, or possess with intent to deliver narcotics from Schedule III, IV, or V or nonnarcotics from Schedule I-V (except cannabis as defined in RCW 69.50.101, amphetamine, methamphetamines, or flunitrazepam) (RCW 69.50.401(2)(c) through (e))
	Manufacture, distribute, or possess with intent to distribute an imitation controlled substance (RCW 69.52.030(1))

DRUG OFFENSES
INCLUDED WITHIN EACH
SERIOUSNESS LEVEL

	Possess, purchase, deliver, sell, or possess with intent to sell a tableting machine or encapsulating machine (section 1 of this act)
I	Forged Prescription (RCW 69.41.020)
	Forged Prescription for a Controlled Substance (RCW 69.50.403)
	Manufacture, deliver, or possess with intent to deliver cannabis as defined in RCW 69.50.101 (RCW 69.50.401(2)(c))
	Possess Controlled Substance that is a Narcotic from Schedule III, IV, or V or Nonnarcotic from Schedule I-V (RCW 69.50.4013)
	Possession of Controlled Substance that is either heroin or narcotics from Schedule I or II (RCW 69.50.4013)
	Unlawful Use of Building for Drug Purposes (RCW 69.53.010)

NEW SECTION. **Sec. 3.** This act may be known and cited as the Tyler Lee Yates act.

Passed by the House March 7, 2023.
Passed by the Senate March 31, 2023.
Approved by the Governor April 13, 2023.
Filed in Office of Secretary of State April 13, 2023.

CHAPTER 67

[Engrossed House Bill 1210]

SCHOOL BOARD MEETINGS—RECORDING

AN ACT Relating to the recording of school board meetings; amending RCW 42.56.080 and 42.30.035; adding a new section to chapter 42.56 RCW; adding a new section to chapter 28A.320 RCW; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 42.56.080 and 2017 c 304 s 2 are each amended to read as follows:

(1)(a) A public records request must be for identifiable records. A request for all or substantially all records prepared, owned, used, or retained by an agency is not a valid request for identifiable records under this chapter, provided that a request for all records regarding a particular topic or containing a

particular keyword or name shall not be considered a request for all of an agency's records.

(b) A request for a recording required to be maintained by a school district board of directors under RCW 42.30.035(2) shall only be considered a valid request for an identifiable record when the date of the recording, or a range of dates, is specified in the request. When searching for and providing identifiable recordings, no search criteria except date must be considered by the school district.

(2) Public records shall be available for inspection and copying, and agencies shall, upon request for identifiable public records, make them promptly available to any person including, if applicable, on a partial or installment basis as records that are part of a larger set of requested records are assembled or made ready for inspection or disclosure. Agencies shall not deny a request for identifiable public records solely on the basis that the request is overbroad. Agencies shall not distinguish among persons requesting records, and such persons shall not be required to provide information as to the purpose for the request except to establish whether inspection and copying would violate RCW 42.56.070(8) or 42.56.240(14), or other statute which exempts or prohibits disclosure of specific information or records to certain persons. Agency facilities shall be made available to any person for the copying of public records except when and to the extent that this would unreasonably disrupt the operations of the agency. Agencies shall honor requests received in person during an agency's normal office hours, or by mail or email, for identifiable public records unless exempted by provisions of this chapter. No official format is required for making a records request; however, agencies may recommend that requestors submit requests using an agency provided form or web page.

(3) An agency may deny a bot request that is one of multiple requests from the requestor to the agency within a twenty-four hour period, if the agency establishes that responding to the multiple requests would cause excessive interference with other essential functions of the agency. For purposes of this subsection, "bot request" means a request for public records that an agency reasonably believes was automatically generated by a computer program or script.

NEW SECTION. **Sec. 2.** A new section is added to chapter 42.56 RCW to read as follows:

The failure to provide a recording of a school district board of directors meeting that is required to be recorded under RCW 42.30.035(2) shall not be a basis for finding that a requester has been denied an opportunity to inspect or copy a public record if the recording, despite the good faith efforts of the school district board of directors to create a recording, is unavailable or unintelligible due to technical issues.

Sec. 3. RCW 42.30.035 and 1953 c 216 s 3 are each amended to read as follows:

(1) The minutes of all regular and special meetings except executive sessions of such boards, commissions, agencies or authorities shall be promptly recorded and such records shall be open to public inspection.

(2) Except in the case of an emergency as provided for in RCW 42.30.070, and excluding executive sessions, all regular and special meetings of school

district boards of directors at which a final action is taken or formal public testimony is accepted shall be audio recorded and such recordings shall be maintained for at least one year. The recording shall include the comments of the directors and the comments of members of the public, if any formal testimony was accepted from the public during the meeting. Subject to the limitations on identifiable records in RCW 42.56.080(1), such recordings must be provided electronically to the public upon request. It is not a violation of this chapter if a school board attempts to record a meeting in good faith and, due to technological issues, a recording is not made or if any or all of a recording is unintelligible. Whenever possible, school districts are encouraged to make the content of school board of directors meetings, or a summary thereof, available in formats accessible to individuals who need communication assistance and in languages other than English.

NEW SECTION. **Sec. 4.** A new section is added to chapter 28A.320 RCW to read as follows:

The meetings of school district boards of directors are subject to the requirements of RCW 42.30.035(2).

NEW SECTION. **Sec. 5.** This act takes effect June 30, 2024.

Passed by the House February 1, 2023.
Passed by the Senate April 5, 2023.
Approved by the Governor April 13, 2023.
Filed in Office of Secretary of State April 13, 2023.

CHAPTER 68

[Substitute House Bill 1254]

DEPARTMENT OF REVENUE—INFLATIONARY INDICES

AN ACT Relating to clarifying ambiguities in statutory provisions administered by the department of revenue relating to periodic adjustments; and amending RCW 53.08.090, 82.12.0203, and 82.21.030.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 53.08.090 and 1994 c 26 s 1 are each amended to read as follows:

(1) A port commission may, by resolution, authorize the managing official of a port district to sell and convey port district property ((~~of ten thousand dollars or less in value~~)) having a value not exceeding the value limit in subsection (2) of this section. The authority ((~~shall~~)) must be in force for not more than one calendar year from the date of resolution and may be renewed from year to year. Prior to any such sale or conveyance the managing official shall itemize and list the property to be sold and make written certification to the commission that the listed property is no longer needed for district purposes. Any large block of the property having a value in excess of ((~~ten thousand dollars shall~~)) the value limit in subsection (2) of this section must not be broken down into components ((~~of ten thousand dollars or less~~)) having a value not exceeding the value limit in subsection (2) of this section and sold in the smaller components unless the smaller components be sold by public competitive bid. A port district may sell and convey any of its real or personal property valued at more than ((~~ten thousand dollars~~)) the value limit in subsection (2) of this section when the port

commission has, by resolution, declared the property to be no longer needed for district purposes, but no property which is a part of the comprehensive plan of improvement or modification thereof ((~~shall~~)) must be disposed of until the comprehensive plan has been modified to find the property surplus to port needs. The comprehensive plan ((~~shall~~)) must be modified only after public notice and hearing provided by RCW 53.20.010.

Nothing in this section ((~~shall be deemed to repeal or modify~~)) repeals or modifies procedures for property sales within industrial development districts as set forth in chapter 53.25 RCW.

(2) ((~~The ten thousand dollar figures in subsection (1) of this section shall be adjusted annually based upon the governmental price index established by the department of revenue under RCW 82.14.200~~)) (a) Beginning on the effective date of this section, the value limit in subsection (1) of this section is $22,000. Beginning December 2024, and each December thereafter, the department shall adjust the value limit for the following calendar year by multiplying the current value limit by one plus the percentage by which the most current consumer price index available on December 1st of the current year exceeds the consumer price index for the prior 12-month period, and rounding the result to the nearest $10.

(b) For purposes of this subsection (2):

(i) "Consumer price index" means the consumer price index for all urban consumers, all items less food and energy, for the Seattle area as calculated by the United States bureau of labor statistics or successor agency.

(ii) "Seattle area" means the geographic area sample that includes Seattle and surrounding areas.

Sec. 2. RCW 82.12.0203 and 2017 3rd sp.s. c 28 s 108 are each amended to read as follows:

(1)(a) The value of the article used with respect to refinery fuel gas subject to tax under this chapter is the ((~~most recent monthly United States natural gas wellhead price, as published by the federal energy information administration~~)) three-year average spot price of natural gas as calculated by the department.

(b) For the purposes of this section, "three-year average spot price of natural gas" means the average of the 36 most recent monthly Henry Hub natural gas spot prices, as published by the federal energy information administration or successor federal agency.

(c) The department must calculate and publish the three-year average spot price of natural gas on its website on a quarterly basis by:

(i) March 25th of each year, for tax due under this chapter on activities occurring April 1st through June 30th of that year;

(ii) June 25th of each year, for tax due under this chapter on activities occurring July 1st through September 30th of that year;

(iii) September 25th of each year, for tax due under this chapter on activities occurring October 1st through December 31st of that year; and

(iv) December 25th of each year, for tax due under this chapter on activities occurring January 1st through March 31st of the following year.

(d) If the federal energy information administration or successor federal agency no longer publishes the Henry Hub natural gas spot price:

(i) The department must notify the appropriate fiscal committees of the legislature that the Henry Hub natural gas spot price is no longer being published by the federal government. This notification must occur before the beginning of

the next regular legislative session following the department becoming aware that the federal energy information administration or successor federal agency no longer publishes the Henry Hub natural gas spot price.

(ii) Until such time as a replacement valuation standard is enacted into law, the value of the article used with respect to refinery fuel gas subject to tax under this chapter is the most recent three-year average spot price of natural gas published by the department on its website.

(2) In lieu of the use tax rate provided in RCW 82.12.020, refinery fuel gas is subject to a rate of:

(a) 0.963 percent from January 1, 2018, through December 31, 2018;

(b) 1.926 percent from January 1, 2019, through December 31, 2019;

(c) 2.889 percent from January 1, 2020, through December 31, 2020; and

(d) 3.852 percent from January 1, 2021, and thereafter.

(3) The use of fuel by the extractor or manufacturer thereof when used directly in the operation of the particular extractive operation or manufacturing plant that produced or manufactured the same is not subject to local use tax.

Sec. 3. RCW 82.21.030 and 2022 c 182 s 313 are each amended to read as follows:

(1)(a) A tax is imposed on the privilege of possession of hazardous substances in this state. Except as provided in (b) of this subsection, the rate of the tax is seven-tenths of one percent multiplied by the wholesale value of the substance. Moneys collected under this subsection (1)(a) must be deposited in the model toxics control capital account.

(b) ((~~Beginning~~)) For the fiscal year beginning July 1, 2019, the rate of the tax on petroleum products is ((~~one dollar and nine cents~~)) $1.09 per barrel. For subsequent fiscal years, the rate of tax on petroleum products is determined pursuant to subsection (3) of this section. The tax collected under this subsection (1)(b) on petroleum products must be deposited as follows, after first depositing the tax as provided in (c) of this subsection, except that during the 2021-2023 biennium the deposit as provided in (c) of this subsection may be prorated equally across each month of the biennium:

(i) Sixty percent to the model toxics control operating account created under RCW 70A.305.180;

(ii) Twenty-five percent to the model toxics control capital account created under RCW 70A.305.190; and

(iii) Fifteen percent to the model toxics control stormwater account created under RCW 70A.305.200.

(c) Until the beginning of the ensuing biennium after the enactment of an additive transportation funding act, $50,000,000 per biennium to the motor vehicle fund to be used exclusively for transportation stormwater activities and projects. For purposes of this subsection, "additive transportation funding act" means an act enacted after June 30, 2023, in which the combined total of new revenues deposited into the motor vehicle fund and the multimodal transportation account exceed $2,000,000,000 per biennium attributable solely to an increase in revenue from the enactment of the act.

(d) The department must compile a list of petroleum products that are not easily measured on a per barrel basis. Petroleum products identified on the list are subject to the rate under (a) of this subsection in lieu of the volumetric rate under (b) of this subsection. The list will be made in a form and manner

prescribed by the department and must be made available on the department's internet website. In compiling the list, the department may accept technical assistance from persons that sell, market, or distribute petroleum products and consider any other resource the department finds useful in compiling the list.

(2) Chapter 82.32 RCW applies to the tax imposed in this chapter. The tax due dates, reporting periods, and return requirements applicable to chapter 82.04 RCW apply equally to the tax imposed in this chapter.

(3) ((~~Beginning~~)) For fiscal years beginning on or after July 1, 2020, ((~~and every July 1st thereafter,~~)) the rate ((~~specified in subsection (1)(b) of this section~~)) of tax on petroleum products for the previous fiscal year must be adjusted to reflect the percentage change in the implicit price deflator for nonresidential structures as published by the United States department of commerce, bureau of economic analysis for the most recent 12-month period ending December 31st of the prior year.

Passed by the House March 1, 2023.
Passed by the Senate April 5, 2023.
Approved by the Governor April 13, 2023.
Filed in Office of Secretary of State April 13, 2023.

CHAPTER 69

[House Bill 1265]

ADULT FAMILY HOMES—PROPERTY TAX EXEMPTION—MODIFICATION

AN ACT Relating to establishing a property tax exemption for adult family homes that serve people with intellectual or developmental disabilities and are owned by a nonprofit; amending RCW 84.36.042 and 84.36.805; reenacting and amending RCW 84.36.805; creating new sections; providing an effective date; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 84.36.042 and 1998 c 202 s 1 are each amended to read as follows:

(1) All real and personal property owned or leased by a nonprofit organization, corporation, or association to provide housing for eligible persons with developmental disabilities is exempt from property taxation, whether such housing is provided directly by the nonprofit organization, corporation, or association, or indirectly as allowed under (c) of this subsection.

(a) To qualify for this exemption, the nonprofit organization, corporation, or association must be qualified for exemption under section 501(c)(3) of the internal revenue code of 1986 (26 U.S.C. Sec. 501(c)(3)). It must also have been organized for charitable purposes to create and preserve long-term affordable housing for low-income ((~~developmentally disabled~~)) persons with developmental disabilities.

(b) The housing must be occupied by eligible persons who have a low income.

(c) Property that is owned or leased by a nonprofit organization, corporation, or association may be leased, sublet, or subject to a service agreement with a provider operating an adult family home under chapter 70.128 RCW that specifically provides services for persons with developmental disabilities, without regard to the nonprofit status of the operator of the adult family home.

(2) As used in this section:

(a) "Developmental disability" means the same as defined in RCW 71A.10.020;

(b) "Eligible person" means the same as defined in RCW 71A.10.020; and

(c) "Low income" means the adjusted gross income of the resident is at eighty percent or less of the median income adjusted for family size, as most recently determined by the federal department of housing and urban development for the county in which the housing is located and in effect as of January 1st of the assessment year for which the exemption is sought. "Adjusted gross income" is as defined in the federal internal revenue code of 1986, as it exists on June 11, 1998, or such subsequent date as the director may provide by rule consistent with the purpose of this section.

(3) To be exempt under this section, the property must be used exclusively for the purposes for which the exemption is granted, except as provided in RCW 84.36.805.

(4) If the real or personal property for which exemption is sought is leased, the benefit of the exemption must inure to the nonprofit organization, corporation, or association leasing the property to provide the housing for ((~~developmentally disabled~~)) persons with developmental disabilities.

Sec. 2. RCW 84.36.805 and 2022 c 93 s 4 and 2022 c 84 s 2 are each reenacted and amended to read as follows:

(1) In order to qualify for an exemption under this chapter, the nonprofit organizations, associations, or corporations must satisfy the conditions in this section.

(2) The property must be used exclusively for the actual operation of the activity for which exemption is granted, unless otherwise provided, and does not exceed an amount reasonably necessary for that purpose. Notwithstanding anything to the contrary in this section:

(a) The loan or rental of the property does not subject the property to tax if:

(i) The rents and donations received for the use of the portion of the property are reasonable and do not exceed the maintenance and operation expenses attributable to the portion of the property loaned or rented; ((~~and~~))

(ii) Except for the exemptions under RCW 84.36.030(4), 84.36.037, 84.36.050, and 84.36.060(1) (a) and (b), the property would be exempt from tax if owned by the organization to which it is loaned or rented; and

(iii) This subsection (2)(a) does not apply to exemptions granted under RCW 84.36.042;

(b) The use of the property for fund-raising events does not subject the property to tax if the fund-raising events are consistent with the purposes for which the exemption is granted or are conducted by a nonprofit organization. If the property is loaned or rented to conduct a fund-raising event, the requirements of (a) of this subsection (2) apply;

(c) An inadvertent use of the property in a manner inconsistent with the purpose for which exemption is granted does not subject the property to tax, if the inadvertent use is not part of a pattern of use. A pattern of use is presumed when an inadvertent use is repeated in the same assessment year or in two or more successive assessment years.

(3) The facilities and services must be available to all regardless of race, color, national origin or ancestry.

(4) The organization, association, or corporation must be duly licensed or certified where such licensing or certification is required by law or regulation.

(5) Property sold to organizations, associations, or corporations with an option to be repurchased by the seller does not qualify for exempt status. This subsection does not apply to:

(a) Limited equity cooperatives as defined in RCW 84.36.675; or

(b) Property sold to a nonprofit entity, as defined in RCW 84.36.560, by:

(i) A nonprofit as defined in RCW 84.36.800 that is exempt from income tax under 26 U.S.C. Sec. 501(c) of the federal internal revenue code;

(ii) A governmental entity established under RCW 35.21.660, 35.21.670, or 35.21.730;

(iii) A housing authority created under RCW 35.82.030;

(iv) A housing authority meeting the definition in RCW 35.82.210(2)(a); or

(v) A housing authority established under RCW 35.82.300.

(6) The department must have access to its books in order to determine whether the nonprofit organization, association, or corporation is exempt from taxes under this chapter.

(7) This section does not apply to exemptions granted under RCW 84.36.020, 84.36.032, 84.36.250, 84.36.049, and 84.36.480(2).

(8)(a) The use of property exempt under this chapter, other than as specifically authorized by this chapter, nullifies the exemption otherwise available for the property for the assessment year. However, the exemption is not nullified by the use of the property by any individual, group, or entity, where such use is not otherwise authorized by this chapter, for not more than 50 days in each calendar year, and the property is not used for pecuniary gain or to promote business activities for more than 15 of the 50 days in each calendar year. The 50 and 15-day limitations provided in this subsection (8)(a) do not include days during which setup and takedown activities take place immediately preceding or following a meeting or other event by an individual, group, or entity using the property as provided in this subsection (8)(a).

(b) If uses of the exempt property exceed the 50 and 15-day limitations provided in (a) of this subsection (8) during an assessment year, the exemption is removed for the affected portion of the property for that assessment year.

(c) The 15-day and 50-day limitations provided in (a) of this subsection (8) do not apply to property exempt under RCW 84.36.037 if the property is used for activities related to a qualifying farmers market, as defined in RCW 66.24.170, and all income received from rental or use of the exempt property is used for capital improvements to the exempt property, maintenance and operation of the exempt property, or exempt purposes. Exempt property under RCW 84.36.037 may be used for up to 53 days for the purposes of a qualifying farmers market.

Sec. 3. RCW 84.36.805 and 2022 c 84 s 2 are each amended to read as follows:

(1) In order to qualify for an exemption under this chapter, the nonprofit organizations, associations, or corporations must satisfy the conditions in this section.

(2) The property must be used exclusively for the actual operation of the activity for which exemption is granted, unless otherwise provided, and does not

exceed an amount reasonably necessary for that purpose. Notwithstanding anything to the contrary in this section:

(a) The loan or rental of the property does not subject the property to tax if:

(i) The rents and donations received for the use of the portion of the property are reasonable and do not exceed the maintenance and operation expenses attributable to the portion of the property loaned or rented; ((~~and~~))

(ii) Except for the exemptions under RCW 84.36.030(4), 84.36.037, 84.36.050, and 84.36.060(1) (a) and (b), the property would be exempt from tax if owned by the organization to which it is loaned or rented; and

(iii) This subsection (2)(a) does not apply to exemptions granted under RCW 84.36.042;

(b) The use of the property for fund-raising events does not subject the property to tax if the fund-raising events are consistent with the purposes for which the exemption is granted or are conducted by a nonprofit organization. If the property is loaned or rented to conduct a fund-raising event, the requirements of (a) of this subsection (2) apply;

(c) An inadvertent use of the property in a manner inconsistent with the purpose for which exemption is granted does not subject the property to tax, if the inadvertent use is not part of a pattern of use. A pattern of use is presumed when an inadvertent use is repeated in the same assessment year or in two or more successive assessment years.

(3) The facilities and services must be available to all regardless of race, color, national origin or ancestry.

(4) The organization, association, or corporation must be duly licensed or certified where such licensing or certification is required by law or regulation.

(5) Property sold to organizations, associations, or corporations with an option to be repurchased by the seller does not qualify for exempt status. This subsection does not apply to property sold to a nonprofit entity, as defined in RCW 84.36.560(7), by:

(a) A nonprofit as defined in RCW 84.36.800 that is exempt from income tax under 26 U.S.C. Sec. 501(c) of the federal internal revenue code;

(b) A governmental entity established under RCW 35.21.660, 35.21.670, or 35.21.730;

(c) A housing authority created under RCW 35.82.030;

(d) A housing authority meeting the definition in RCW 35.82.210(2)(a); or

(e) A housing authority established under RCW 35.82.300.

(6) The department must have access to its books in order to determine whether the nonprofit organization, association, or corporation is exempt from taxes under this chapter.

(7) This section does not apply to exemptions granted under RCW 84.36.020, 84.36.032, 84.36.250, 84.36.049, and 84.36.480(2).

(8)(a) The use of property exempt under this chapter, other than as specifically authorized by this chapter, nullifies the exemption otherwise available for the property for the assessment year. However, the exemption is not nullified by the use of the property by any individual, group, or entity, where such use is not otherwise authorized by this chapter, for not more than fifty days in each calendar year, and the property is not used for pecuniary gain or to promote business activities for more than fifteen of the fifty days in each calendar year. The fifty and fifteen-day limitations provided in this subsection

(8)(a) do not include days during which setup and takedown activities take place immediately preceding or following a meeting or other event by an individual, group, or entity using the property as provided in this subsection (8)(a).

(b) If uses of the exempt property exceed the fifty and fifteen-day limitations provided in (a) of this subsection (8) during an assessment year, the exemption is removed for the affected portion of the property for that assessment year.

(c) The 15-day and 50-day limitations provided in (a) of this subsection (8) do not apply to property exempt under RCW 84.36.037 if the property is used for activities related to a qualifying farmers market, as defined in RCW 66.24.170, and all income received from rental or use of the exempt property is used for capital improvements to the exempt property, maintenance and operation of the exempt property, or exempt purposes. Exempt property under RCW 84.36.037 may be used for up to 53 days for the purposes of a qualifying farmers market.

NEW SECTION. **Sec. 4.** This act applies to taxes levied for collection beginning January 1, 2024.

NEW SECTION. **Sec. 5.** RCW 82.32.805 and 82.32.808 do not apply to this act.

NEW SECTION. **Sec. 6.** Section 2 of this act expires January 1, 2033.

NEW SECTION. **Sec. 7.** Section 3 of this act takes effect January 1, 2033.

Passed by the House March 6, 2023.
Passed by the Senate March 31, 2023.
Approved by the Governor April 13, 2023.
Filed in Office of Secretary of State April 13, 2023.

CHAPTER 70

[Engrossed House Bill 1274]
CHILD MALNUTRITION FIELD GUIDE

AN ACT Relating to creating a child malnutrition field guide for the department of children, youth, and families; and adding a new section to chapter 74.13 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 74.13 RCW to read as follows:

By September 1, 2023, the department, in consultation with the department of health, shall produce and make available to department staff a child malnutrition field guide. This child malnutrition field guide must:

(1) Be concise, but provide references to additional comprehensive and trauma-informed resources for department staff to access if needed;

(2) Be easily accessible by department staff;

(3) Describe how to identify signs of child malnutrition;

(4) Include appropriate questions to ask the child and others close to the child when child malnutrition is suspected;

(5) Include the appropriate next steps department staff may take when child malnutrition is suspected; and

(6) Include any additional information the department deems relevant.

Passed by the House March 4, 2023.
Passed by the Senate April 5, 2023.
Approved by the Governor April 13, 2023.
Filed in Office of Secretary of State April 13, 2023.

CHAPTER 71

[House Bill 1287]

DENTAL HYGIENISTS—LIMITED LICENSES—ACTIVE PRACTICE

AN ACT Relating to dental hygienists; and amending RCW 18.29.190.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 18.29.190 and 2019 c 111 s 3 are each amended to read as follows:

(1) The department shall issue an initial limited license without the examination required by this chapter to any applicant who, as determined by the secretary:

(a) Holds a valid license in another state or Canadian province that allows a substantively equivalent scope of practice in subsection (3)(a) through (j) of this section;

(b) ((~~Is currently engaged in active practice in another state or Canadian province. For the purposes of this section, "active practice" means five hundred sixty hours of practice in the preceding twenty-four months;~~

~~(c)~~)) Files with the secretary documentation certifying that the applicant:

(i) Has graduated from an accredited dental hygiene school approved by the secretary;

(ii) Has successfully completed the dental hygiene national board examination; and

(iii) Is licensed to practice in another state or Canadian province;

(((~~(d)~~))) (c) Provides information as the secretary deems necessary pertaining to the conditions and criteria of the uniform disciplinary act, chapter 18.130 RCW;

(((~~(e)~~))) (d) Demonstrates to the secretary a knowledge of Washington state law pertaining to the practice of dental hygiene, including the administration of legend drugs;

(((~~(f)~~))) (e) Pays any required fees; and

(((~~(g)~~))) (f) Meets requirements for AIDS education.

(2) The term of the initial limited license issued under this section is ((~~eighteen~~)) 18 months and it is renewable upon:

(a) Demonstration of successful passage of a substantively equivalent dental hygiene patient evaluation/prophylaxis examination;

(b) Demonstration of successful passage of a substantively equivalent local anesthesia examination;

(c) Demonstration of didactic and clinical competency in the administration of nitrous oxide analgesia; and

(d) Demonstration of successful passage of an educational program on the administration of local anesthesia and nitrous oxide analgesia.

(3) A person practicing with an initial limited license granted under this section has the authority to perform hygiene procedures that are limited to:

(a) Oral inspection and measuring of periodontal pockets;

(b) Patient education in oral hygiene;

(c) Taking intra-oral and extra-oral radiographs;

(d) Applying topical preventive or prophylactic agents;

(e) Polishing and smoothing restorations;

(f) Oral prophylaxis and removal of deposits and stains from the surface of the teeth;

(g) Recording health histories;

(h) Taking and recording blood pressure and vital signs;

(i) Performing subgingival and supragingival scaling; and

(j) Performing root planing.

(4)(a) A person practicing with an initial limited license granted under this section may not perform the following dental hygiene procedures unless authorized in (b) or (c) of this subsection:

(i) Give injections of local anesthetic;

(ii) Place restorations into the cavity prepared by a licensed dentist and afterwards carve, contour, and adjust contacts and occlusion of the restoration;

(iii) Soft tissue curettage; or

(iv) Administer nitrous oxide/oxygen analgesia.

(b) A person licensed in another state or Canadian province who can demonstrate substantively equivalent licensing standards in the administration of local anesthetic may receive a temporary endorsement to administer local anesthesia. For purposes of the renewed limited license, this endorsement demonstrates the successful passage of the local anesthesia examination.

(c) A person licensed in another state or Canadian province who can demonstrate substantively equivalent licensing standards in restorative procedures may receive a temporary endorsement for restorative procedures.

(d) A person licensed in another state or Canadian province who can demonstrate substantively equivalent licensing standards in administering nitrous oxide analgesia may receive a temporary endorsement to administer nitrous oxide analgesia.

(5)(a) A person practicing with a renewed limited license granted under this section may:

(i) Perform hygiene procedures as provided under subsection (3) of this section;

(ii) Give injections of local anesthetic;

(iii) Perform soft tissue curettage; and

(iv) Administer nitrous oxide/oxygen analgesia.

(b) A person practicing with a renewed limited license granted under this section may not place restorations into the cavity prepared by a licensed dentist and afterwards carve, contour, and adjust contacts and occlusion of the restoration.

Passed by the House February 2, 2023.

Passed by the Senate March 31, 2023.

Approved by the Governor April 13, 2023.

Filed in Office of Secretary of State April 13, 2023.

CHAPTER 72

[House Bill 1290]

TRIBAL POLICE OFFICERS AND EMPLOYEES—COST OF TRAINING

AN ACT Relating to training for tribal police officers and employees; and amending RCW 43.101.230.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 43.101.230 and 2021 c 323 s 15 are each amended to read as follows:

Tribal police officers and employees who are engaged in law enforcement activities and who do not qualify as "criminal justice personnel" or "law enforcement personnel" under RCW 43.101.010 shall be provided training under this chapter if: (((~~(a) [(1)]~~))) (1) The tribe is recognized by the federal government, and (((~~(b) [(2)] the tribe pays~~))) (2) tribal agencies with tribal officer certification agreements with the commission under RCW 43.101.157 shall reimburse the commission for 25 percent of the cost of training its personnel. Tribes without current written tribal officer certification agreements with the commission shall pay to the commission the full cost of providing such training. The commission shall place all money received under this section into the criminal justice training account.

Passed by the House February 28, 2023.
Passed by the Senate March 31, 2023.
Approved by the Governor April 13, 2023.
Filed in Office of Secretary of State April 13, 2023.

CHAPTER 73

[Engrossed House Bill 1336]

VOLUNTEER FIREFIGHTERS' AND RESERVE OFFICERS' RELIEF AND PENSION PRINCIPAL FUND—SPLIT

AN ACT Relating to splitting the volunteer firefighters' and reserve officers' relief and pension principal fund into two accounts; amending RCW 41.24.030, 41.24.030, 41.24.035, 43.84.092, and 43.84.092; amending 2020 c 144 s 3 (uncodified); reenacting and amending RCW 41.24.010; adding new sections to chapter 41.24 RCW; creating new sections; providing an effective date; providing a contingent effective date; providing an expiration date; and providing a contingent expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** INTENT. (1) The legislature finds that the tax deferral of contributions to the volunteer firefighters' and reserve officers' relief and pension system is contingent on retaining qualified status with the internal revenue service, and that the loss of qualified status could potentially result in costly unintended tax liability for the plan and plan members. The state board for volunteer firefighters and reserve officers has recently been alerted by the internal revenue service that the plan is not in compliance with the rules for qualification because it contains reserve officer members.

(2) To avoid the possible loss of plan qualification while ensuring both reserve officers and volunteer firefighters receive the benefits they have been promised, the legislature intends to align the plan with federal requirements by splitting the plan into two separate plans overseen by the same board. All

members and beneficiaries of each plan should receive the same benefits after the split that they would have prior to the split.

(3) To accomplish the split, the legislature intends for this act to take the following actions:

(a) Reserve officer members, including active, retired, and beneficiaries of those members, are to be moved to a new reserve officers' plan, while volunteer firefighters and emergency medical technicians remain in the existing plan. Both will reside within the volunteer firefighters' and reserve officers' system and be overseen by the state board created in RCW 41.24.250; and

(b) The principal fund defined in RCW 41.24.010(10) will be split into two funds; one for each plan. The contributions and earnings will be split proportionate to the membership of each group.

(4) While it is the intent of the legislature that this act be carried out in a way that avoids any tax consequences for the plan, members, and beneficiaries, in the event of such consequences the legislature intends for the plan to absorb the cost of those tax consequences so that the members and beneficiaries are not negatively impacted.

NEW SECTION. **Sec. 2.** A new section is added to chapter 41.24 RCW to read as follows:

(1) Any tax liability accruing to members or beneficiaries of a plan that results directly from chapter . . ., Laws of 2023 (this act) will be paid by the appropriate principal funds.

(2) The state board may by rule establish a process that ensures tax penalties are paid by the principal fund for the appropriate plan. This process should be designed in coordination with tax counsel to ensure that any claims are valid, and that members and beneficiaries are impacted as little as reasonably possible.

NEW SECTION. **Sec. 3.** (1) The principal fund defined in RCW 41.24.010(10) is hereby split into two funds:

(a) The volunteer firefighters' principal fund for the volunteer firefighters' plan; and

(b) The reserve officers' principal fund for the reserve officers' plan.

(2) The state board for volunteer firefighters and reserve officers shall transfer from the volunteer firefighters' principal fund to the reserve officers' principal fund an amount of assets proportionate to the members being transferred to the new reserve officers' plan.

NEW SECTION. **Sec. 4.** A new section is added to chapter 41.24 RCW to read as follows:

The state board is instructed to administer chapter . . ., Laws of 2023 (this act) in a way that neither reduces benefits, nor grants additional benefits, for members or beneficiaries of the plan.

Sec. 5. RCW 41.24.010 and 2010 c 60 s 2 are each reenacted and amended to read as follows:

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

(1) "Administrative fund" means the volunteer firefighters' and reserve officers' administrative fund created under RCW 41.24.030.

(2) "Appropriate legislation" means an ordinance when an ordinance is the means of legislating by any municipality, and resolution in all other cases.

(3) "Board of trustees" or "local board" means: (a) For matters affecting firefighters, a firefighter board of trustees created under RCW 41.24.060; (b) for matters affecting an emergency worker, an emergency medical service district board of trustees created under RCW 41.24.330; or (c) for matters affecting reserve officers, a reserve officer board of trustees created under RCW 41.24.460.

(4) "Emergency worker" means any emergency medical service personnel, regulated by chapters 18.71 and 18.73 RCW, who is a member of an emergency medical service district but shall not include emergency medical service personnel who are eligible for participation in the Washington public employees' retirement system, with respect to periods of service rendered in such capacity.

(5) "Fire department" means any regularly organized fire department or emergency medical service district consisting wholly of volunteer firefighters, or any part-paid and part-volunteer fire department duly organized and maintained by any municipality: PROVIDED, That any such municipality wherein a part-paid fire department is maintained may by appropriate legislation permit the full-paid members of its department to come under the provisions of chapter 41.16 RCW.

(6) "Firefighter" includes any firefighter or emergency worker who is a member of any fire department of any municipality but shall not include firefighters who are eligible for participation in the Washington law enforcement officers' and firefighters' retirement system or the Washington public employees' retirement system, with respect to periods of service rendered in such capacity.

(7) "Municipal corporation" or "municipality" includes any county, city, town or combination thereof, fire protection district, local law enforcement agency, or any emergency medical service district or other special district, authorized by law to protect life or property within its boundaries through a fire department, emergency workers, or reserve officers.

(8) "Participant" means:

(a) For the volunteer firefighters' plan:

(i) For purposes of relief, ((~~any reserve officer who is or may become eligible for relief under this chapter or~~)) any firefighter or emergency worker; and ((~~(b)~~))

(ii) For purposes of retirement pension, any firefighter((~~,~~)) or emergency worker((~~, or reserve officer~~)) who is or may become eligible to receive a benefit of any type under the retirement provisions of this chapter, or whose beneficiary may be eligible to receive any such benefit; and

(b) For the reserve officers' plan:

(i) For purposes of relief, any reserve officer who is or may become eligible for relief under this chapter; and

(ii) For purposes of retirement pension, any reserve officer who is or may become eligible to receive a benefit of any type under the retirement provisions of this chapter, or whose beneficiary may be eligible to receive any such benefit.

(9) "Performance of duty" or "performance of service" shall be construed to mean and include any work in and about company quarters, any fire station, any law enforcement office or precinct, or any other place under the direction or general orders of the chief or other officer having authority to order such member to perform such work; performing other officially assigned duties that are secondary to his or her duties as a firefighter, emergency worker, or reserve

officer such as maintenance, public education, inspections, investigations, court testimony, and fund-raising for the benefit of the department; being on call or on standby under the orders of the chief or designated officer of the department, except at the individual's home or place of business; responding to, working at, or returning from an alarm of fire, emergency call, or law enforcement duties; drill or training; or any work performed of an emergency nature in accordance with the rules and regulations of the fire department or local law enforcement agency.

(10) "Principal fund" means either the volunteer firefighters' ((~~and reserve officers'~~)) relief and pension principal fund created under RCW 41.24.030 or the reserve officers' relief and pension principal fund created in RCW 41.24.030(2).

(11) "Relief" means all medical, death, and disability benefits available under this chapter that are made necessary from death, sickness, injury, or disability arising in the performance of duty, including benefits provided under RCW 41.24.110, 41.24.150, 41.24.160, 41.24.175, 41.24.220, and 41.24.230, but does not include retirement pensions provided under this chapter.

(12) "Reserve officer" means the same as defined by the Washington state criminal justice training commission under chapter 43.101 RCW, but shall not include enforcement officers who are eligible for participation in the Washington law enforcement officers' and firefighters' retirement system or the Washington public employees' retirement system, with respect to periods of service rendered in such capacity.

(13) "Retired participant" means any participant who is at least sixty-five years of age and has been retired by the board of trustees under RCW 41.24.170 and has been in receipt of a monthly pension for no less than three months.

(14) "Retirement pension" means retirement payments for the performance of service, as provided under RCW 41.24.170, 41.24.172, 41.24.175, 41.24.180, and 41.24.185.

(15) "State board" means the state board for volunteer firefighters and reserve officers.

Sec. 6. RCW 41.24.030 and 2005 c 37 s 2 are each amended to read as follows:

(1) The volunteer firefighters' ((~~and reserve officers'~~)) relief and pension principal fund is created in the state treasury as a trust fund for the benefit of the volunteer firefighter and emergency worker participants covered by this chapter consisting of:

(a) All bequests, fees, gifts, emoluments, or donations given or paid to the fund((~~.~~));

(b) An annual fee for each member of its fire department to be paid by each municipal corporation for the purpose of affording relief provided in this chapter for firefighters as follows:

(i) Thirty dollars for each volunteer or part-paid member of its fire department;

(ii) A sum equal to one and one-half of one percent of the annual salary attached to the rank of each full-paid member of its fire department, prorated for 1970 on the basis of services prior to March 1, 1970((~~.~~));

(c) An annual fee for each emergency worker of an emergency medical service district paid by the district that is sufficient to pay the full costs of covering the emergency worker under the relief provisions of this chapter,

including operating expenses. The state board shall determine the amount of this fee based on the latest actuarial valuation of the system((~~.~~));

(d) ((~~Where a municipal corporation has elected to make relief provisions of this chapter available to its reserve officers, an annual fee for each reserve officer paid by the municipal corporation that is sufficient to pay the full costs of covering the reserve officer under the relief provisions of this chapter, including operating expenses. The state board shall determine the amount of this fee based on the latest actuarial valuation of the system.~~

~~(e)~~)) Where a municipal corporation has elected to make the retirement pension provisions of this chapter available to members of its fire department, an annual fee of sixty dollars for each of its firefighters electing to enroll, thirty dollars of which shall be paid by the municipality and thirty dollars of which shall be paid by the firefighter. However, nothing in this section prohibits any municipality from voluntarily paying the firefighters' fee for this retirement pension coverage((~~.~~));

((~~(f)~~)) (e) Where an emergency medical service district has elected to make the retirement pension provisions of this chapter available to its emergency workers, for each emergency worker electing to enroll: (i) An annual fee of thirty dollars shall be paid by the emergency worker; and (ii) an annual fee paid by the emergency medical service district that, together with the thirty dollar fee per emergency worker, is sufficient to pay the full costs of covering the emergency worker under the retirement pension benefits provided under this chapter, including operating expenses. The state board shall determine the amount of this fee based on the latest actuarial valuation of the system. However, nothing in this section prohibits any emergency medical service district from voluntarily paying the emergency workers' fees for this retirement pension coverage((~~.~~));

(((~~(g) Where a municipal corporation has elected to make the retirement pension provisions of this chapter available to its reserve officers, for each reserve officer electing to enroll: (i) An annual fee of thirty dollars shall be paid by the reserve officer; and (ii) an annual fee paid by the municipal corporation that, together with the thirty dollar fee per reserve officer, is sufficient to pay the full costs of covering the reserve officer under the retirement pension benefits provided under this chapter, including operating expenses. The state board shall determine the amount of this fee based on the latest actuarial valuation of the system. However, nothing in this section prohibits any municipal corporation from voluntarily paying the reserve officers' fees for this retirement pension coverage.~~

~~(h)~~)) (f) Moneys transferred from the administrative fund, as provided under subsection ((~~(4)~~)) (5) of this section, which may only be used to pay relief and retirement pensions for firefighters((~~.~~)); and

((~~(i)~~)) (g) Earnings from the investment of moneys in the volunteer firefighters' principal fund.

(2) The reserve officers' relief and pension principal fund is created in the state treasury as a trust fund for the benefit of the reserve officer participants covered by this chapter consisting of:

(a) All bequests, fees, gifts, emoluments, or donations given or paid to the fund;

(b) Where a municipal corporation has elected to make relief provisions of this chapter available to its reserve officers, an annual fee for each reserve officer paid by the municipal corporation that is sufficient to pay the full costs of covering the reserve officer under the relief provisions of this chapter, including operating expenses. The state board shall determine the amount of this fee based on the latest actuarial valuation of the system;

(c) Where a municipal corporation has elected to make the retirement pension provisions of this chapter available to its reserve officers, for each reserve officer electing to enroll: (i) An annual fee of $30 shall be paid by the reserve officer; and (ii) an annual fee paid by the municipal corporation that, together with the $30 fee per reserve officer, is sufficient to pay the full costs of covering the reserve officer under the retirement pension benefits provided under this chapter, including operating expenses. The state board shall determine the amount of this fee based on the latest actuarial valuation of the system. However, nothing in this section prohibits any municipal corporation from voluntarily paying the reserve officers' fees for this retirement pension coverage;

(d) Moneys transferred from the administrative fund, as provided under subsection (5) of this section, which may only be used to pay relief and retirement pensions for reserve officers; and

(e) Earnings from the investment of moneys in the reserve officers' principal fund.

(3)(a) The state investment board((~~, upon request of the state treasurer~~)) shall have full power to invest, reinvest, manage, contract, sell, commingle, or exchange investments acquired from that portion of the amounts credited to the principal funds as is not, in the judgment of the state board, required to meet current withdrawals. Investments shall be made in the manner prescribed by RCW 43.84.150 and not otherwise.

(b) All bonds, investments, or other obligations purchased by the state investment board shall be placed in the custody of the state treasurer, and he or she shall collect the principal thereof and interest thereon when due.

((~~The state investment board may sell any of the bonds, investments, or obligations so acquired and the proceeds thereof shall be paid to the state treasurer.~~

~~(3)~~)) (4)(a) The interest, earnings, and proceeds from the sale and redemption of any investments held by the principal fund and invested by the state investment board shall be credited to and form a part of the principal fund, less the allocation to the state investment board expense account pursuant to RCW 43.33A.160.

(b) Subject to restrictions contained in this chapter, all amounts credited to the principal fund shall be available for making the benefit payments required by this chapter. Amounts credited to each separate principal fund shall only be available to make benefit payments for the members of that specific principal fund.

(c) The state treasurer shall make an annual report showing the condition of the funds.

(((~~(4)~~))) (5) The volunteer firefighters' and reserve officers' administrative fund is created in the state treasury. Moneys in the fund, including unanticipated revenues under RCW 43.79.270, may be spent only after appropriation, and may be used only for operating expenses of the volunteer firefighters' ((~~and reserve~~

~~officers'~~)) relief and pension principal fund, the reserve officers' relief and pension principal fund, the operating expenses of the volunteer firefighters' and reserve officers' administrative fund, or for transfer from the administrative fund to the principal fund.

(a) Forty percent of all moneys received by the state from taxes on fire insurance premiums shall be paid into the state treasury and credited to the administrative fund.

(b) The state board shall compute a percentage of the amounts credited to the administrative fund to be paid into the principal fund.

(c) For the purpose of providing amounts to be used to defray the cost of administration of the principal and administrative funds, the state board shall ascertain at the beginning of each biennium and request from the legislature an appropriation from the administrative fund sufficient to cover estimated expenses for the biennium.

(6) Pursuant to section 3 of this act, on August 1, 2023, the state board will transfer an amount of funds from the principal account in subsection (1) of this section to the new principal account created in subsection (2) of this section.

Sec. 7. RCW 41.24.030 and 2020 c 144 s 1 are each amended to read as follows:

(1) The volunteer firefighters' ((~~and reserve officers'~~)) relief and pension principal fund is created in the state treasury as a trust fund for the benefit of the volunteer firefighter and emergency worker participants covered by this chapter consisting of:

(a) All bequests, fees, gifts, emoluments, or donations given or paid to the fund((~~,~~));

(b) An annual fee for each member of its fire department to be paid by each municipal corporation for the purpose of affording relief provided in this chapter for firefighters as follows:

(i) Fifty dollars for each volunteer or part-paid member of its fire department;

(ii) A sum equal to one and one-half of one percent of the annual salary attached to the rank of each full-paid member of its fire department, prorated for 1970 on the basis of services prior to March 1, 1970((~~,~~));

(c) An annual fee for each emergency worker of an emergency medical service district paid by the district that is sufficient to pay the full costs of covering the emergency worker under the relief provisions of this chapter, including operating expenses. The state board shall determine the amount of this fee based on the latest actuarial valuation of the system((~~,~~));

(d) ((~~Where a municipal corporation has elected to make relief provisions of this chapter available to its reserve officers, an annual fee for each reserve officer paid by the municipal corporation that is sufficient to pay the full costs of covering the reserve officer under the relief provisions of this chapter, including operating expenses. The state board shall determine the amount of this fee based on the latest actuarial valuation of the system.~~

~~(e)~~)) Where a municipal corporation has elected to make the retirement pension provisions of this chapter available to members of its fire department, an annual fee of ninety dollars for each of its firefighters electing to enroll, forty-five dollars of which shall be paid by the municipality and forty-five dollars of which shall be paid by the firefighter. However, nothing in this section prohibits

any municipality from voluntarily paying the firefighters' fee for this retirement pension coverage((.));

(((~~(f)~~))) (e) Where an emergency medical service district has elected to make the retirement pension provisions of this chapter available to its emergency workers, for each emergency worker electing to enroll: (i) An annual fee of forty-five dollars shall be paid by the emergency worker; and (ii) an annual fee paid by the emergency medical service district that, together with the forty-five dollar fee per emergency worker, is sufficient to pay the full costs of covering the emergency worker under the retirement pension benefits provided under this chapter, including operating expenses. The state board shall determine the amount of this fee based on the latest actuarial valuation of the system. However, nothing in this section prohibits any emergency medical service district from voluntarily paying the emergency workers' fees for this retirement pension coverage((.));

(((~~(g) Where a municipal corporation has elected to make the retirement pension provisions of this chapter available to its reserve officers, for each reserve officer electing to enroll: (i) An annual fee of forty-five dollars shall be paid by the reserve officer; and (ii) an annual fee paid by the municipal corporation that, together with the forty-five dollar fee per reserve officer, is sufficient to pay the full costs of covering the reserve officer under the retirement pension benefits provided under this chapter, including operating expenses. The state board shall determine the amount of this fee based on the latest actuarial valuation of the system. However, nothing in this section prohibits any municipal corporation from voluntarily paying the reserve officers' fees for this retirement pension coverage.~~

~~(h)~~))) (f) Moneys transferred from the administrative fund, as provided under subsection (((~~(4)~~))) (5) of this section, which may only be used to pay relief and retirement pensions for firefighters((.)); and

(((~~(i)~~))) (g) Earnings from the investment of moneys in the volunteer firefighters' principal fund.

(2) The reserve officers' relief and pension principal fund is created in the state treasury as a trust fund for the benefit of the reserve officer participants covered by this chapter consisting of:

(a) All bequests, fees, gifts, emoluments, or donations given or paid to the fund;

(b) Where a municipal corporation has elected to make relief provisions of this chapter available to its reserve officers, an annual fee for each reserve officer paid by the municipal corporation that is sufficient to pay the full costs of covering the reserve officer under the relief provisions of this chapter, including operating expenses. The state board shall determine the amount of this fee based on the latest actuarial valuation of the system;

(c) Where a municipal corporation has elected to make the retirement pension provisions of this chapter available to its reserve officers, for each reserve officer electing to enroll: (i) An annual fee of $45 shall be paid by the reserve officer; and (ii) an annual fee paid by the municipal corporation that, together with the $45 fee per reserve officer, is sufficient to pay the full costs of covering the reserve officer under the retirement pension benefits provided under this chapter, including operating expenses. The state board shall determine the amount of this fee based on the latest actuarial valuation of the system.

However, nothing in this section prohibits any municipal corporation from voluntarily paying the reserve officers' fees for this retirement pension coverage;

(d) Moneys transferred from the administrative fund, as provided under subsection (5) of this section, which may only be used to pay relief and retirement pensions for reserve officers; and

(e) Earnings from the investment of moneys in the reserve officers' principal fund.

(3)(a) The state investment board((~~, upon request of the state treasurer~~)) shall have full power to invest, reinvest, manage, contract, sell, comingle, or exchange investments acquired from that portion of the amounts credited to the principal funds as is not, in the judgment of the state board, required to meet current withdrawals. Investments shall be made in the manner prescribed by RCW 43.84.150 and not otherwise.

(b) All bonds, investments, or other obligations purchased by the state investment board shall be placed in the custody of the state treasurer, and he or she shall collect the principal thereof and interest thereon when due.

((~~The state investment board may sell any of the bonds, investments, or obligations so acquired and the proceeds thereof shall be paid to the state treasurer.~~

~~(3)~~)) (4)(a) The interest, earnings, and proceeds from the sale and redemption of any investments held by the principal fund and invested by the state investment board shall be credited to and form a part of the principal fund, less the allocation to the state investment board expense account pursuant to RCW 43.33A.160.

(b) Subject to restrictions contained in this chapter, all amounts credited to the principal fund shall be available for making the benefit payments required by this chapter. Amounts credited to each separate principal fund shall only be available to make benefit payments for the members of that specific principal fund.

(c) The state treasurer shall make an annual report showing the condition of the funds.

(((~~4~~))) (5) The volunteer firefighters' and reserve officers' administrative fund is created in the state treasury. Moneys in the fund, including unanticipated revenues under RCW 43.79.270, may be spent only after appropriation, and may be used only for operating expenses of the volunteer firefighters' ((~~and reserve officers'~~)) relief and pension principal fund, the reserve officers' relief and pension principal fund, the operating expenses of the volunteer firefighters' and reserve officers' administrative fund, or for transfer from the administrative fund to the principal fund.

(a) Forty percent of all moneys received by the state from taxes on fire insurance premiums shall be paid into the state treasury and credited to the administrative fund.

(b) The state board shall compute a percentage of the amounts credited to the administrative fund to be paid into the principal fund.

(c) For the purpose of providing amounts to be used to defray the cost of administration of the principal and administrative funds, the state board shall ascertain at the beginning of each biennium and request from the legislature an appropriation from the administrative fund sufficient to cover estimated expenses for the biennium.

(6) Pursuant to section 3 of this act, on August 1, 2023, the state board will transfer an amount of funds from the principal account in subsection (1) of this section to the new principal account created in subsection (2) of this section.

Sec. 8. RCW 41.24.035 and 1999 c 148 s 4 are each amended to read as follows:

(1) The state board is authorized to pay from the earnings of the principal funds and administrative fund lawful obligations of the system for legal expenses and medical expenses which expenses are primarily incurred for the purpose of protecting the principal funds or are incurred in compliance with statutes governing such funds.

(2)(a) The term "legal expense" includes, but is not limited to, legal services provided through the legal services revolving fund, fees for expert witnesses, travel expenses, fees for court reporters, cost of transcript preparation, and reproduction of documents.

(b) The term "medical costs" includes, but is not limited to, expenses for the medical examination or reexamination of members or retirees, the costs of preparation of medical reports, and fees charged by medical professionals for attendance at discovery proceedings or hearings.

Sec. 9. RCW 43.84.092 and 2022 c 182 s 403 are each amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the

period: The abandoned recreational vehicle disposal account, the aeronautics account, the Alaskan Way viaduct replacement project account, the ambulance transport fund, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the Chehalis basin taxable account, the cleanup settlement account, the climate active transportation account, the climate transit programs account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community services account, the diesel idle reduction account, the drinking water assistance account, the administrative subaccount of the drinking water assistance account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the electric vehicle account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the fair start for kids account, the ferry bond retirement fund, the fish, wildlife, and conservation account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the state higher education construction account, the higher education construction account, the higher education retirement plan supplemental benefit fund, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the hospital safety net assessment fund, the Interstate 405 and state route number 167 express toll lanes account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the limited fish and wildlife account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the move ahead WA account, the move ahead WA flexible account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pilotage account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations

account, the Puget Sound Gateway facility account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the reserve officers' relief and pension principal fund, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the sexual assault prevention and response account, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state reclamation revolving account, the state route number 520 civil penalties account, the state route number 520 corridor account, the statewide broadband account, the statewide tourism marketing account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the University of Washington bond retirement fund, the University of Washington building account, the voluntary cleanup account, the volunteer firefighters' ((~~and reserve officers'~~)) relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the vulnerable roadway user education account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Sec. 10. RCW 43.84.092 and 2022 c 182 s 404 are each amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the Alaskan Way viaduct replacement project account, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the Chehalis basin taxable account, the cleanup settlement account, the climate active transportation account, the climate transit programs account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental

disabilities community services account, the diesel idle reduction account, the drinking water assistance account, the administrative subaccount of the drinking water assistance account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the electric vehicle account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the fair start for kids account, the ferry bond retirement fund, the fish, wildlife, and conservation account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the state higher education construction account, the higher education construction account, the higher education retirement plan supplemental benefit fund, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the hospital safety net assessment fund, the Interstate 405 and state route number 167 express toll lanes account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the limited fish and wildlife account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the move ahead WA account, the move ahead WA flexible account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pilotage account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound Gateway facility account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the reserve officers' relief and pension principal fund, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the sexual assault prevention and response account, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state reclamation revolving account, the state route number 520 civil penalties account, the state route number 520 corridor account, the statewide broadband account, the statewide tourism marketing account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account,

the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the University of Washington bond retirement fund, the University of Washington building account, the voluntary cleanup account, the volunteer firefighters' ((~~and reserve officers'~~)) relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the vulnerable roadway user education account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. **Sec. 11.** (1) Section 6 of this act expires when chapter 144, Laws of 2020 takes effect.

(2) Section 9 of this act expires July 1, 2024.

NEW SECTION. **Sec. 12.** (1) Section 7 of this act takes effect when chapter 144, Laws of 2020 takes effect.

(2) Section 10 of this act takes effect July 1, 2024.

Sec. 13. 2020 c 144 s 3 (uncodified) is amended to read as follows:

((~~This act~~)) Chapter 144, Laws of 2020 takes effect the later of January 1, 2021, or the date that the board for volunteer firefighters and reserve officers receives notice from the federal internal revenue service that the volunteer firefighters ((~~and reserve officers relief and pension system~~)) plan is a qualified employee benefit plan under the federal law. The board must provide written notice of the effective date of this act to affected parties, the chief clerk of the

house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the board.

Passed by the House March 2, 2023.
Passed by the Senate March 31, 2023.
Approved by the Governor April 13, 2023.
Filed in Office of Secretary of State April 13, 2023.

CHAPTER 74

[Substitute House Bill 1352]
COUNTY INVESTMENT POOLS—TRIBES

AN ACT Relating to authorizing tribal investment in county investment pools; and amending RCW 36.29.020, 36.29.022, and 36.29.024.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 36.29.020 and 1999 c 18 s 4 are each amended to read as follows:

(1)(a) The county treasurer shall keep all moneys belonging to the state, or to any county, in his or her own possession until disbursed according to law. The county treasurer shall not place the same in the possession of any person to be used for any purpose; nor shall he or she loan or in any manner use or permit any person to use the same; but it shall be lawful for a county treasurer to deposit any such moneys in any regularly designated qualified public depositary. Any municipal corporation may by action of its governing body authorize any of its funds which are not required for immediate expenditure, and which are in the custody of the county treasurer or other municipal corporation treasurer, to be invested by such treasurer.

(b) Subject to the approval of the county treasurer, an authorized tribal official may, when expressly designated by a tribal constitution, ordinance, or resolution as having the authority to invest funds of a qualifying federally recognized tribe or federally recognized political subdivisions thereof, enter into an intergovernmental agreement to invest tribal funds with the county treasurer. Tribal funds invested in this way must be under the control of or in the custody of the tribe or a political subdivision thereof, and the tribe must warrant that the use or disposition of the funds are not subject to, or are used and deposited with, federal approval, and must warrant that the funds are not immediately required to meet current demands.

(c) The county treasurer may invest in savings or time accounts in designated qualified public depositaries or in certificates, notes, or bonds of the United States, or other obligations of the United States or its agencies, or of any corporation wholly owned by the government of the United States; in bankers' acceptances purchased on the secondary market, in federal home loan bank notes and bonds, federal land bank bonds and federal national mortgage association notes, debentures and guaranteed certificates of participation, or the obligations of any other government sponsored corporation whose obligations are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system or deposit such funds or any portion thereof in investment deposits as defined in RCW 39.58.010 secured by collateral in accordance with the provisions of chapters 39.58 and 39.59 RCW:

PROVIDED, Five percent of the earnings, with an annual maximum of ((~~fifty dollars~~)) $50, on each transaction authorized by the governing body or authorized tribal official shall be paid as an investment service fee to the office of the county treasurer or other municipal corporation treasurer when the earnings become available to the governing body or tribe: PROVIDED FURTHER, That if such investment service fee amounts to five dollars or less the county treasurer or other municipal corporation treasurer may waive such fee.

(d) If in the judgment of the governing body of the municipal corporation, the authorized tribal official, or the county treasurer it is necessary to redeem or to sell any of the purchased securities before their ultimate maturity date, the governing body or authorized tribal official may, by resolution or by official request, direct the county treasurer pursuant to RCW 36.29.010(8) to cause such redemption to be had at the redemption value of the securities or to sell the securities at not less than market value and accrued interest.

(2) Whenever the funds of any municipal corporation which are not required for immediate expenditure are in the custody or control of the county treasurer, and the governing body of such municipal corporation has not taken any action pertaining to the investment of any such funds, the county finance committee shall direct the county treasurer, under the investment policy of the county finance committee, to invest, to the maximum prudent extent, such funds or any portion thereof in savings or time accounts in designated qualified public depositaries or in certificates, notes, or bonds of the United States, or other obligations of the United States or its agencies, or of any corporation wholly owned by the government of the United States, in bankers' acceptances purchased on the secondary market, in federal home loan bank notes and bonds, federal land bank bonds and federal national mortgage association notes, debentures and guaranteed certificates of participation, or the obligations of any other government sponsored corporation whose obligations are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system or deposit such funds or any portion thereof in investment deposits as defined in RCW 39.58.010 secured by collateral in accordance with the provisions of chapters 39.58 and 39.59 RCW: PROVIDED, That the county treasurer shall have the power to select the specific qualified financial institution in which the funds may be invested. The interest or other earnings from such investments or deposits shall be deposited in the current expense fund of the county and may be used for general county purposes. The investment or deposit and disposition of the interest or other earnings therefrom authorized by this paragraph shall not apply to such funds as may be prohibited by the state Constitution from being so invested or deposited.

Sec. 2. RCW 36.29.022 and 1986 c 294 s 11 are each amended to read as follows:

Upon the request of one or several units of local government or authorized tribal officials of tribes that invest their money with the county under the provisions of RCW 36.29.020, the treasurer of that county may combine those units' and/or tribes' moneys for the purposes of investment.

Sec. 3. RCW 36.29.024 and 2009 c 553 s 1 are each amended to read as follows:

(1) The county treasurer may deduct the amounts necessary to reimburse the treasurer's office for the actual expenses the office incurs and to repay any county funds appropriated and expended for the initial administrative costs of establishing a county investment pool provided in RCW 36.29.022. These funds shall be used by the county treasurer as a revolving fund to defray the cost of administering the pool without regard to budget limitations. Any credits or payments to political subdivisions or tribal governments shall be calculated and made in a manner which equitably reflects the differing amounts of the political subdivision's respective deposits in the county investment pool and the differing periods of time for which the amounts were placed in the county investment pool.

(2) A county investment pool must be available for investment of funds of any local government or tribal government that invests its money with the county under the provisions of RCW 36.29.020, and a county treasurer shall follow the request from the local government or tribal government to invest its funds in the pool.

(3) As used in this section "actual expenses" include only the county treasurer's direct and out-of-pocket costs and do not include indirect or loss of opportunity costs. As used in this section, "direct costs" means those costs that can be identified specifically with the administration of the county investment pool. Direct costs include: ((~~(1)~~)) (a) Compensation of employees for the time devoted and identified specifically to administering the pool; and ((~~(2)~~)) (b) the cost of materials, services, or equipment acquired, consumed, or expended specifically for the purpose of administering the pool.

Passed by the House February 8, 2023.
Passed by the Senate March 31, 2023.
Approved by the Governor April 13, 2023.
Filed in Office of Secretary of State April 13, 2023.

CHAPTER 75

[House Bill 1419]

COUNTY TREASURERS—DUTIES

AN ACT Relating to county treasurers' duties concerning registered warrants; amending RCW 36.29.010; and repealing RCW 36.29.040, 36.29.050, and 36.29.060.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 36.29.010 and 2019 c 20 s 1 are each amended to read as follows:

(1) The county treasurer:

((~~(1)~~)) (a) Shall receive all money due the county and disburse it on warrants issued and attested by the county auditor and electronic funds transfer under RCW 39.58.750 as attested by the county auditor;

((~~(2)~~)) (b) Shall issue a receipt in duplicate for all money received other than taxes; the treasurer shall deliver immediately to the person making the payment the original receipt and the duplicate shall be retained by the treasurer;

((~~(3) Shall affix on the face of all paid warrants the~~)) (c) Shall designate as cleared or redeemed in the appropriate county accounting records, the date of redemption or, in the case of proper contract between the treasurer and a

qualified public depositary, the treasurer may consider the date ((~~affixed~~)) cleared or redeemed by the financial institution as the date of redemption;

(((~~(4) Shall endorse, before the date of issue by the county or by any taxing district for whom the county treasurer acts as treasurer, on the face of all warrants for which there are not sufficient funds for payment, "interest bearing warrant." When there are funds to redeem outstanding warrants, the county treasurer shall give notice:~~

~~(a) By publication in a legal newspaper published or circulated in the county; or~~

~~(b) By posting at three public places in the county if there is no such newspaper; or~~

~~(c) By notification to the financial institution holding the warrant;~~

~~(5) Shall pay interest on all interest-bearing warrants from the date of issue to the date of notification~~)) (d) May, in cases where there are insufficient funds for the redemption of warrants issued by the county or any taxing district for which the county treasurer acts as treasurer, using such funds as not necessary for immediate expenditure, contract with the county or any taxing district for a mutually agreed upon period of time, including for appropriate interest to cover such insufficient funds prior to the issuance of said warrants. In each instance, the county or any taxing district shall not issue additional warrants against funds where a contract is in place with the county treasurer without first contacting the county treasurer and, if necessary, renegotiating a contract to cover such additional funding as may be mutually agreed to;

(((~~(6)~~))) (e) Shall maintain financial records reflecting receipts and disbursement by fund in accordance with generally accepted accounting principles;

(((~~(7)~~))) (f) Shall account for and pay all bonded indebtedness for the county and all special districts for which the county treasurer acts as treasurer;

(((~~(8)~~))) (g) Shall invest all funds of the county or any special district in the treasurer's custody, not needed for immediate expenditure, in a manner consistent with appropriate statutes. If cash is needed to redeem warrants issued from any fund in the custody of the treasurer, the treasurer shall liquidate investments in an amount sufficient to cover such warrant redemptions;

(((~~(9)~~))) (h) May provide certain collection services for county departments; and

(((~~(10)~~))) (i) May contract with another county treasurer, the state treasurer, or both, for any duty or service performed by the contracting county treasurer, except that no contracted treasurer may perform a duty that is in conflict with his or her own duties as treasurer or that is in conflict with any other statutory or ethical requirements.

(2) The treasurer, at the expiration of the term of office, shall make a complete settlement with the county legislative authority, and shall deliver to the successor all public money, books, and papers in the treasurer's possession.

(3) Money received by all entities for whom the county treasurer serves as treasurer must be deposited within twenty-four hours in an account designated by the county treasurer unless a waiver is granted by the county treasurer in accordance with RCW 43.09.240.

NEW SECTION. **Sec. 2.** The following acts or parts of acts are each repealed:

(1) RCW 36.29.040 (Interest on unpaid warrants) and 1980 c 100 s 3 & 1963 c 4 s 36.29.040;

(2) RCW 36.29.050 (Interest to be entered on warrant register) and 2001 c 299 s 5, 1969 ex.s. c 48 s 1, & 1963 c 4 s 36.29.050; and

(3) RCW 36.29.060 (Warrant calls—Penalty for failure to call) and 2003 c 53 s 203, 1991 c 245 s 6, 1985 c 469 s 44, 1980 c 100 s 4, & 1963 c 4 s 36.29.060.

Passed by the House February 28, 2023.

Passed by the Senate March 31, 2023.

Approved by the Governor April 13, 2023.

Filed in Office of Secretary of State April 13, 2023.

CHAPTER 76

[House Bill 1420]

MORTGAGES AND DEEDS OF TRUST—LIEN PRIORITY

AN ACT Relating to lien priority of mortgages and deeds of trust; adding a new section to chapter 61.12 RCW; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** It is the intent of the legislature to clarify that the first in time, first in right rule of priority applies to all mortgages and deeds of trust and any future advances thereunder without regard to whether such future advances are optional or obligatory. It is not the intent of the legislature to repeal any other statute that expressly provides for special priority over mortgages and deeds of trust.

NEW SECTION. **Sec. 2.** A new section is added to chapter 61.12 RCW to read as follows:

Except as otherwise provided in chapter 60.04 RCW, any mortgage or deed of trust shall be prior to all liens, mortgages, deeds of trust, and other encumbrances that have not been recorded before the recording of the mortgage or deed of trust to the extent of all sums secured by the mortgage or deed of trust regardless of when the same are disbursed or whether the disbursements are obligatory.

NEW SECTION. **Sec. 3.** This act applies to all causes of action commenced on or after the effective date of this section, regardless of when the cause of action arose. To this extent, this act applies retroactively, but in all other respects it applies prospectively.

Passed by the House February 28, 2023.

Passed by the Senate March 31, 2023.

Approved by the Governor April 13, 2023.

Filed in Office of Secretary of State April 13, 2023.

CHAPTER 77

[House Bill 1481]

TRIBAL PEACE OFFICERS—RETIREMENT SYSTEM PARTICIPATION

AN ACT Relating to permitting general authority peace officers certificated by the criminal justice training commission and employed on a full-time basis by the government of a federally recognized tribe to participate in the law enforcement officers' and firefighters' retirement system plan 2; amending RCW 41.26.030 and 41.26.450; adding new sections to chapter 41.26 RCW; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 41.26.030 and 2021 c 12 s 2 are each amended to read as follows:

As used in this chapter, unless a different meaning is plainly required by the context:

(1) "Accumulated contributions" means the employee's contributions made by a member, including any amount paid under RCW 41.50.165(2), plus accrued interest credited thereon.

(2) "Actuarial reserve" means a method of financing a pension or retirement plan wherein reserves are accumulated as the liabilities for benefit payments are incurred in order that sufficient funds will be available on the date of retirement of each member to pay the member's future benefits during the period of retirement.

(3) "Actuarial valuation" means a mathematical determination of the financial condition of a retirement plan. It includes the computation of the present monetary value of benefits payable to present members, and the present monetary value of future employer and employee contributions, giving effect to mortality among active and retired members and also to the rates of disability, retirement, withdrawal from service, salary and interest earned on investments.

(4)(a) "Basic salary" for plan 1 members, means the basic monthly rate of salary or wages, including longevity pay but not including overtime earnings or special salary or wages, upon which pension or retirement benefits will be computed and upon which employer contributions and salary deductions will be based.

(b) "Basic salary" for plan 2 members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay. In any year in which a member serves in the legislature the member shall have the option of having such member's basic salary be the greater of:

(i) The basic salary the member would have received had such member not served in the legislature; or

(ii) Such member's actual basic salary received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because basic salary under (b)(i) of this subsection is greater than basic salary under (b)(ii) of this subsection shall be paid by the member for both member and employer contributions.

(5)(a) "Beneficiary" for plan 1 members, means any person in receipt of a retirement allowance, disability allowance, death benefit, or any other benefit described herein.

(b) "Beneficiary" for plan 2 members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(6)(a) "Child" or "children" means an unmarried person who is under the age of eighteen or mentally or physically disabled as determined by the department, except a person who is disabled and in the full time care of a state institution, who is:

(i) A natural born child;

(ii) A stepchild where that relationship was in existence prior to the date benefits are payable under this chapter;

(iii) A posthumous child;

(iv) A child legally adopted or made a legal ward of a member prior to the date benefits are payable under this chapter; or

(v) An illegitimate child legitimized prior to the date any benefits are payable under this chapter.

(b) A person shall also be deemed to be a child up to and including the age of twenty years and eleven months while attending any high school, college, or vocational or other educational institution accredited, licensed, or approved by the state, in which it is located, including the summer vacation months and all other normal and regular vacation periods at the particular educational institution after which the child returns to school.

(7) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(8) "Director" means the director of the department.

(9) "Disability board" for plan 1 members means either the county disability board or the city disability board established in RCW 41.26.110.

(10) "Disability leave" means the period of six months or any portion thereof during which a member is on leave at an allowance equal to the member's full salary prior to the commencement of disability retirement. The definition contained in this subsection shall apply only to plan 1 members.

(11) "Disability retirement" for plan 1 members, means the period following termination of a member's disability leave, during which the member is in receipt of a disability retirement allowance.

(12) "Domestic partners" means two adults who have registered as domestic partners under RCW 26.60.020.

(13) "Employee" means any law enforcement officer or firefighter as defined in subsections (17) and (19) of this section.

(14)(a) "Employer" for plan 1 members, means the legislative authority of any city, town, county, district, or regional fire protection service authority or the elected officials of any municipal corporation that employs any law enforcement officer and/or firefighter, any authorized association of such municipalities, and, except for the purposes of RCW 41.26.150, any labor guild, association, or organization, which represents the firefighters or law enforcement officers of at least seven cities of over 20,000 population and the membership of each local lodge or division of which is composed of at least sixty percent law enforcement officers or firefighters as defined in this chapter.

(b) "Employer" for plan 2 members, means the following entities to the extent that the entity employs any law enforcement officer and/or firefighter:

(i) The legislative authority of any city, town, county, district, public corporation, or regional fire protection service authority established under RCW 35.21.730 to provide emergency medical services as defined in RCW 18.73.030;

(ii) The elected officials of any municipal corporation;

(iii) The governing body of any other general authority law enforcement agency;

(iv) A four-year institution of higher education having a fully operational fire department as of January 1, 1996; or

(v) The department of social and health services or the department of corrections when employing firefighters serving at a prison or civil commitment center on an island.

(c) Except as otherwise specifically provided in this chapter, "employer" does not include a government contractor. For purposes of this subsection, a "government contractor" is any entity, including a partnership, limited liability company, for-profit or nonprofit corporation, or person, that provides services pursuant to a contract with an "employer." The determination whether an employer-employee relationship has been established is not based on the relationship between a government contractor and an "employer," but is based solely on the relationship between a government contractor's employee and an "employer" under this chapter.

(15)(a) "Final average salary" for plan 1 members, means (i) for a member holding the same position or rank for a minimum of twelve months preceding the date of retirement, the basic salary attached to such same position or rank at time of retirement; (ii) for any other member, including a civil service member who has not served a minimum of twelve months in the same position or rank preceding the date of retirement, the average of the greatest basic salaries payable to such member during any consecutive twenty-four month period within such member's last ten years of service for which service credit is allowed, computed by dividing the total basic salaries payable to such member during the selected twenty-four month period by twenty-four; (iii) in the case of disability of any member, the basic salary payable to such member at the time of disability retirement; (iv) in the case of a member who hereafter vests pursuant to RCW 41.26.090, the basic salary payable to such member at the time of vesting.

(b) "Final average salary" for plan 2 members, means the monthly average of the member's basic salary for the highest consecutive sixty service credit months of service prior to such member's retirement, termination, or death. Periods constituting authorized unpaid leaves of absence may not be used in the calculation of final average salary.

(c) In calculating final average salary under (a) or (b) of this subsection, the department of retirement systems shall include:

(i) Any compensation forgone by a member employed by a state agency or institution during the 2009-2011 fiscal biennium as a result of reduced work hours, mandatory or voluntary leave without pay, temporary reduction in pay implemented prior to December 11, 2010, or temporary layoffs if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer;

(ii) Any compensation forgone by a member employed by the state or a local government employer during the 2011-2013 fiscal biennium as a result of reduced work hours, mandatory leave without pay, temporary layoffs, or reductions to current pay if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer. Reductions to current pay shall not include elimination of previously agreed upon future salary increases; and

(iii) Any compensation forgone by a member employed by the state or a local government employer during the 2019-2021 and 2021-2023 fiscal biennia as a result of reduced work hours, mandatory leave without pay, temporary layoffs, furloughs, reductions to current pay, or other similar measures resulting from the COVID-19 budgetary crisis, if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer. Reductions to current pay shall not include elimination of previously agreed upon future salary increases.

(16) "Fire department" includes a fire station operated by the department of social and health services or the department of corrections when employing firefighters serving a prison or civil commitment center on an island.

(17) "Firefighter" means:

(a) Any person who is serving on a full time, fully compensated basis as a member of a fire department of an employer and who is serving in a position which requires passing a civil service examination for firefighter, and who is actively employed as such;

(b) Anyone who is actively employed as a full time firefighter where the fire department does not have a civil service examination;

(c) Supervisory firefighter personnel;

(d) Any full time executive secretary of an association of fire protection districts authorized under RCW 52.12.031. The provisions of this subsection (17)(d) shall not apply to plan 2 members;

(e) The executive secretary of a labor guild, association or organization (which is an employer under subsection (14) of this section), if such individual has five years previous membership in a retirement system established in chapter 41.16 or 41.18 RCW. The provisions of this subsection (17)(e) shall not apply to plan 2 members;

(f) Any person who is serving on a full time, fully compensated basis for an employer, as a fire dispatcher, in a department in which, on March 1, 1970, a dispatcher was required to have passed a civil service examination for firefighter;

(g) Any person who on March 1, 1970, was employed on a full time, fully compensated basis by an employer, and who on May 21, 1971, was making retirement contributions under the provisions of chapter 41.16 or 41.18 RCW; and

(h) Any person who is employed on a full-time, fully compensated basis by an employer as an emergency medical technician that meets the requirements of RCW 18.71.200 or 18.73.030((~~(12)~~)) (13), and whose duties include providing emergency medical services as defined in RCW 18.73.030.

(18) "General authority law enforcement agency" means any agency, department, or division of a municipal corporation, political subdivision, or other unit of local government of this state, the government of a federally

recognized tribe, and any agency, department, or division of state government, having as its primary function the detection and apprehension of persons committing infractions or violating the traffic or criminal laws in general, but not including the Washington state patrol. Such an agency, department, or division is distinguished from a limited authority law enforcement agency having as one of its functions the apprehension or detection of persons committing infractions or violating the traffic or criminal laws relating to limited subject areas, including but not limited to, the state departments of natural resources and social and health services, the state gambling commission, the state lottery commission, the state parks and recreation commission, the state utilities and transportation commission, the state liquor and cannabis board, and the state department of corrections. A general authority law enforcement agency under this chapter does not include a government contractor.

(19) "Law enforcement officer" beginning January 1, 1994, means any person who is commissioned and employed by an employer on a full time, fully compensated basis to enforce the criminal laws of the state of Washington generally, with the following qualifications:

(a) No person who is serving in a position that is basically clerical or secretarial in nature, and who is not commissioned shall be considered a law enforcement officer;

(b) Only those deputy sheriffs, including those serving under a different title pursuant to county charter, who have successfully completed a civil service examination for deputy sheriff or the equivalent position, where a different title is used, and those persons serving in unclassified positions authorized by RCW 41.14.070 except a private secretary will be considered law enforcement officers;

(c) Only such full time commissioned law enforcement personnel as have been appointed to offices, positions, or ranks in the police department which have been specifically created or otherwise expressly provided for and designated by city charter provision or by ordinance enacted by the legislative body of the city shall be considered city police officers;

(d) The term "law enforcement officer" also includes the executive secretary of a labor guild, association or organization (which is an employer under subsection (14) of this section) if that individual has five years previous membership in the retirement system established in chapter 41.20 RCW. The provisions of this subsection (19)(d) shall not apply to plan 2 members; ((~~and~~))

(e) The term "law enforcement officer" also includes a person employed on or after January 1, 1993, as a public safety officer or director of public safety, so long as the job duties substantially involve only either police or fire duties, or both, and no other duties in a city or town with a population of less than ten thousand. The provisions of this subsection (19)(e) shall not apply to any public safety officer or director of public safety who is receiving a retirement allowance under this chapter as of May 12, 1993; and

(f) The term "law enforcement officer" also includes a person who is employed on or after January 1, 2024, on a full-time basis by the government of a federally recognized tribe within the state of Washington that meets the terms and conditions of section 2 of this act, is employed in a police department maintained by that tribe, and who is currently certified as a general authority peace officer under chapter 43.101 RCW.

(20) "Medical services" for plan 1 members, shall include the following as minimum services to be provided. Reasonable charges for these services shall be paid in accordance with RCW 41.26.150.

(a) Hospital expenses: These are the charges made by a hospital, in its own behalf, for

(i) Board and room not to exceed semiprivate room rate unless private room is required by the attending physician due to the condition of the patient.

(ii) Necessary hospital services, other than board and room, furnished by the hospital.

(b) Other medical expenses: The following charges are considered "other medical expenses," provided that they have not been considered as "hospital expenses".

(i) The fees of the following:

(A) A physician or surgeon licensed under the provisions of chapter 18.71 RCW;

(B) An osteopathic physician and surgeon licensed under the provisions of chapter 18.57 RCW;

(C) A chiropractor licensed under the provisions of chapter 18.25 RCW.

(ii) The charges of a registered graduate nurse other than a nurse who ordinarily resides in the member's home, or is a member of the family of either the member or the member's spouse.

(iii) The charges for the following medical services and supplies:

(A) Drugs and medicines upon a physician's prescription;

(B) Diagnostic X-ray and laboratory examinations;

(C) X-ray, radium, and radioactive isotopes therapy;

(D) Anesthesia and oxygen;

(E) Rental of iron lung and other durable medical and surgical equipment;

(F) Artificial limbs and eyes, and casts, splints, and trusses;

(G) Professional ambulance service when used to transport the member to or from a hospital when injured by an accident or stricken by a disease;

(H) Dental charges incurred by a member who sustains an accidental injury to his or her teeth and who commences treatment by a legally licensed dentist within ninety days after the accident;

(I) Nursing home confinement or hospital extended care facility;

(J) Physical therapy by a registered physical therapist;

(K) Blood transfusions, including the cost of blood and blood plasma not replaced by voluntary donors;

(L) An optometrist licensed under the provisions of chapter 18.53 RCW.

(21) "Member" means any firefighter, law enforcement officer, or other person as would apply under subsection (17) or (19) of this section whose membership is transferred to the Washington law enforcement officers' and firefighters' retirement system on or after March 1, 1970, and every law enforcement officer and firefighter who is employed in that capacity on or after such date.

(22) "Plan 1" means the law enforcement officers' and firefighters' retirement system, plan 1 providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(23) "Plan 2" means the law enforcement officers' and firefighters' retirement system, plan 2 providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977.

(24) "Position" means the employment held at any particular time, which may or may not be the same as civil service rank.

(25) "Regular interest" means such rate as the director may determine.

(26) "Retiree" for persons who establish membership in the retirement system on or after October 1, 1977, means any member in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by such member.

(27) "Retirement fund" means the "Washington law enforcement officers' and firefighters' retirement system fund" as provided for herein.

(28) "Retirement system" means the "Washington law enforcement officers' and firefighters' retirement system" provided herein.

(29)(a) "Service" for plan 1 members, means all periods of employment for an employer as a firefighter or law enforcement officer, for which compensation is paid, together with periods of suspension not exceeding thirty days in duration. For the purposes of this chapter service shall also include service in the armed forces of the United States as provided in RCW 41.26.190. Credit shall be allowed for all service credit months of service rendered by a member from and after the member's initial commencement of employment as a firefighter or law enforcement officer, during which the member worked for seventy or more hours, or was on disability leave or disability retirement. Only service credit months of service shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter.

(i) For members retiring after May 21, 1971 who were employed under the coverage of a prior pension act before March 1, 1970, "service" shall also include (A) such military service not exceeding five years as was creditable to the member as of March 1, 1970, under the member's particular prior pension act, and (B) such other periods of service as were then creditable to a particular member under the provisions of RCW 41.18.165, 41.20.160, or 41.20.170. However, in no event shall credit be allowed for any service rendered prior to March 1, 1970, where the member at the time of rendition of such service was employed in a position covered by a prior pension act, unless such service, at the time credit is claimed therefor, is also creditable under the provisions of such prior act.

(ii) A member who is employed by two employers at the same time shall only be credited with service to one such employer for any month during which the member rendered such dual service.

(iii) Reduction efforts such as furloughs, reduced work hours, mandatory leave without pay, temporary layoffs, or other similar situations as contemplated by subsection (15)(c)(iii) of this section do not result in a reduction in service credit that otherwise would have been earned for that month of work, and the member shall receive the full service credit for the hours that were scheduled to be worked before the reduction.

(b)(i) "Service" for plan 2 members, means periods of employment by a member for one or more employers for which basic salary is earned for ninety or more hours per calendar month which shall constitute a service credit month. Periods of employment by a member for one or more employers for which basic

salary is earned for at least seventy hours but less than ninety hours per calendar month shall constitute one-half service credit month. Periods of employment by a member for one or more employers for which basic salary is earned for less than seventy hours shall constitute a one-quarter service credit month.

(ii) Members of the retirement system who are elected or appointed to a state elective position may elect to continue to be members of this retirement system.

(iii) Service credit years of service shall be determined by dividing the total number of service credit months of service by twelve. Any fraction of a service credit year of service as so determined shall be taken into account in the computation of such retirement allowance or benefits.

(iv) If a member receives basic salary from two or more employers during any calendar month, the individual shall receive one service credit month's service credit during any calendar month in which multiple service for ninety or more hours is rendered; or one-half service credit month's service credit during any calendar month in which multiple service for at least seventy hours but less than ninety hours is rendered; or one-quarter service credit month during any calendar month in which multiple service for less than seventy hours is rendered.

(v) Reduction efforts such as furloughs, reduced work hours, mandatory leave without pay, temporary layoffs, or other similar situations as contemplated by subsection (15)(c)(iii) of this section do not result in a reduction in service credit that otherwise would have been earned for that month of work, and the member shall receive the full service credit for the hours that were scheduled to be worked before the reduction.

(30) "Service credit month" means a full service credit month or an accumulation of partial service credit months that are equal to one.

(31) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(32) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(33) "State elective position" means any position held by any person elected or appointed to statewide office or elected or appointed as a member of the legislature.

(34) "Surviving spouse" means the surviving widow or widower of a member. "Surviving spouse" shall not include the divorced spouse of a member except as provided in RCW 41.26.162.

NEW SECTION. **Sec. 2.** A new section is added to chapter 41.26 RCW to read as follows:

(1) The governor is authorized to enter into state-tribal compacts for the participation of tribal general authority peace officers meeting the terms and conditions of this section in the law enforcement officers' and firefighters' retirement system plan 2.

(2) The governor shall establish an application and approval process, procedures, and timelines for the negotiation, approval or disapproval, and execution of state-tribal law enforcement officers' and firefighters' retirement system plan 2 compacts.

(3) The process may be initiated by submission, to the governor, of a resolution by the governing body of a federally recognized tribe in the state of Washington.

(4) The resolution must be accompanied by an application that indicates the police department whose employees will be offered participation in the law enforcement officers' and firefighters' retirement system plan 2, and that demonstrates that the police department will be operated solely as a governmental entity and compliant with all applicable state and federal laws, the rules adopted thereunder, and the terms and conditions set forth in the application.

(5) Within 90 days of receipt of a resolution and application under this section, the governor must convene a government-to-government meeting for the purpose of considering the resolution and application and initiating negotiations.

(6) State-tribal law enforcement officers' and firefighters' retirement system plan 2 participation compacts must include provisions regarding:

(a) Acknowledgment by the tribe that it affirmatively chooses to participate in the law enforcement officers' and firefighters' retirement system for tribal law enforcement officers meeting the criteria of this section;

(b) Evidence that the person or persons who sign the compact on behalf of a tribe have authority under tribal law to bind the tribe to all provisions in the compact, including any waiver of sovereign immunity;

(c) If the tribe chooses to participate in the law enforcement officers' and firefighters' retirement system:

(i) Agreement by the tribe that it meets the definition of an employer as defined in this chapter;

(ii) Agreement by the tribe to adhere to all reporting, contribution, and auditing requirements as defined in this chapter, and all rules adopted under authority of RCW 41.50.050(5), including RCW 41.26.062; and

(iii) Agreement by the tribe that, at the request of the criminal justice training commission, the tribe will make available any records the tribe has provided to the department of retirement systems as required under the reporting, contribution, and auditing requirements defined in this chapter or chapter 41.50 RCW, and rules implementing those chapters;

(d) Agreement by the tribe to a limited waiver of sovereign immunity and consent to the jurisdiction of the Washington state courts for the purpose of enforcing the reporting, contribution, and auditing requirements defined in this chapter and all rules adopted under authority of RCW 41.50.050(5), including RCW 41.26.062;

(e) Agreement by the tribe to dissolution procedures memorialized in the state-tribal compact so that all parties are aware of their expectations and duties if the compact terminates or the tribal law enforcement agency chooses to no longer participate in the state retirement systems at a future date, specifically including withdrawal liability and examples of the scale of withdrawal liability for an employer with a tribal law enforcement agency similar in size to the tribe memorializing the compact;

(f) Acknowledgment by the tribe that it has been advised that choosing to no longer participate in the retirement systems may result in federal tax implications for the governing body and its employees that are outside the control of the state of Washington, the department of retirement systems, and that the tribe has been encouraged to seek counsel before agreeing to any dissolution procedures in the compact; and

(g) Acknowledgment by both parties that the pension system participation portions of the state-tribal compact are null and void if the federal internal revenue service issues guidance stating that any portion of those sections are in conflict with the plan qualification requirements for governmental plans in section 401(a) of the internal revenue code, and the conflict cannot be resolved through administrative action, statutory change, or amendment to the state-tribal compact.

(7) For tribes that opt out of pension system participation, such tribal law enforcement employees shall have no right to earn additional service credit in the plan.

Sec. 3. RCW 41.26.450 and 2021 c 334 s 965 are each amended to read as follows:

(1) Port districts established under Title 53 RCW ((~~and~~)), institutions of higher education as defined in RCW 28B.10.016, and tribal governments participating through a state-tribal compact as defined in section 2 of this act shall contribute both the employer and state shares of the cost of the retirement system for any of their employees who are law enforcement officers.

(2) Institutions of higher education shall contribute both the employer and the state shares of the cost of the retirement system for any of their employees who are firefighters.

(3) During fiscal years 2018 and 2019 and during the 2019-2021 and 2021-2023 fiscal biennia:

When an employer charges a fee or recovers costs for work performed by a plan member where:

(a) The member receives compensation that is includable as basic salary under RCW 41.26.030(4)(b); and

(b) The service is provided, whether directly or indirectly, to an entity that is not an "employer" under RCW 41.26.030(14)(b);

the employer shall contribute both the employer and state shares of the cost of the retirement system contributions for that compensation. Nothing in this subsection prevents an employer from recovering the cost of the contribution from the entity receiving services from the member.

NEW SECTION. **Sec. 4.** A new section is added to chapter 41.26 RCW to read as follows:

(1) A member who is employed as a law enforcement officer with the police department of the government of a federally recognized tribe on July 1, 2025, may establish credit for such service rendered prior to July 1, 2025, unless service is either already credited for those periods, or a member was in receipt of retirement benefits from any retirement system listed in RCW 41.50.030. Upon receipt of a written request, the department of retirement systems must notify the member of the cost to establish credit for all or part of such service. Service credit may only be established for periods prior to July 1, 2025, if that service meets the requirements of RCW 41.26.030.

(2) Before July 1, 2026, a member may elect to establish credit in plan 2 under this section. Such election must be filed in writing with the department of retirement systems by June 30, 2026. The elected period must be in monthly increments beginning with the oldest service.

(a) To establish service under this section, the member must pay the actuarial value of the resulting increase in their benefit in a manner defined by the department: (i) No later than five years from the effective date of the election made under this section; and (ii) prior to retirement.

(b) Upon full payment of employee contributions for the elected period of service the department of retirement systems must credit the member with the service.

NEW SECTION. **Sec. 5.** This act takes effect July 1, 2025.

Passed by the House February 13, 2023.
Passed by the Senate March 31, 2023.
Approved by the Governor April 13, 2023.
Filed in Office of Secretary of State April 13, 2023.

CHAPTER 78

[House Bill 1514]

RECREATIONAL VEHICLES AND PARK TRAILERS—INSIGNIA DISTRIBUTION

AN ACT Relating to the purchase and distribution of insignia to manufacturers of recreational vehicles and/or park trailers; and amending RCW 43.22.350.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 43.22.350 and 2008 c 181 s 202 are each amended to read as follows:

(1) In compliance with any applicable provisions of this chapter, the director of the department of labor and industries shall establish a schedule of fees, whether on the basis of plan approval or inspection, for the issuance of an insigne which indicates that the mobile home, commercial coach, conversion vending units, medical units, recreational vehicle, and/or park trailer complies with the provisions of RCW 43.22.340 through 43.22.410 or for any other purpose specifically authorized by any applicable provision of this chapter.

(2) Insignia are not required on mobile homes, commercial coaches, conversion vending units, medical units, recreational vehicles, and/or park trailers manufactured within this state for sale outside this state which are sold to persons outside this state.

(3) During a state of emergency declared under RCW 43.06.010(12), the governor may waive or suspend the collection of fees under this section or any portion of this section or under any administrative rule, and issue any orders to facilitate the operation of state or local government or to promote and secure the safety and protection of the civilian population.

(4) The department of labor and industries shall permit the purchase and distribution of insignia to a manufacturer of recreational vehicles and/or park trailers with an approved quality control program, upon such manufacturer's submission of plans and specifications of a model or production prototype of a recreational vehicle and/or park trailer and the payment of plan and specification review fees to the department of labor and industries.

Passed by the House March 4, 2023.
Passed by the Senate March 31, 2023.
Approved by the Governor April 13, 2023.

Filed in Office of Secretary of State April 13, 2023.

CHAPTER 79

[Second Substitute House Bill 1522]

HIGHER EDUCATION—SEXUAL MISCONDUCT—SCHOLARLY AND PROFESSIONAL ASSOCIATIONS

AN ACT Relating to addressing sexual misconduct at scholarly or professional associations; amending RCW 28B.112.040 and 28B.112.080; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** In 2020 the legislature established RCW 28B.112.080 requiring colleges and universities statewide, both public and private, to ask job applicants to declare whether they had been the subject of substantiated findings of sexual misconduct by a current or previous employer, whether they are the subject of current investigations of sexual misconduct by their employer, or whether they resigned employment during an ongoing investigation. It requires postsecondary educational institutions to request documentation of substantiated findings or investigations prior to extending an offer of employment.

In academic settings, sexual misconduct can take place outside the context of employment. For example, an employee of one university might harass a student or employee of a different university in a professional setting such as a conference or meeting. A growing number of scholarly associations sponsoring conferences or other events have adopted codes of conduct and investigative procedures to address the problem of sexual misconduct in these contexts. The legislature intends to expand the declaration required of applicants for employment to include substantiated findings by scholarly associations. Further, the legislature intends to expand the requirement to request documentation to include substantiated findings generated by scholarly associations.

Sec. 2. RCW 28B.112.040 and 2020 c 335 s 2 are each amended to read as follows:

The definitions in this section apply throughout this section and RCW 28B.112.050 through 28B.112.080 unless the context clearly requires otherwise.

(1) "Applicant" means a person applying for employment as faculty, instructor, staff, advisor, counselor, coach, athletic department staff, and any position in which the applicant will likely have direct ongoing contact with students in a supervisory role or position of authority. "Applicant" does not include enrolled students who are applying for temporary student employment with the postsecondary educational institutions, unless the student is a graduate student applying for a position in which the graduate student will have a supervisory role or position of authority over other students. "Applicant" does not include a person applying for employment as medical staff or for employment with an affiliated organization, entity, or extension of a postsecondary educational institution, unless the applicant will have a supervisory role or position of authority over students.

(2) "Association" means a scholarly or professional organization or learned society that sponsors activities or events for the benefit of individuals affiliated with postsecondary educational institutions, with a code of conduct forbidding

sexual misconduct at such activities or events, and established investigative procedures for allegations that the code of conduct has been violated.

(3) "Employee" means a person who is receiving or has received wages as an employee from the postsecondary educational institutions and includes current and former workers, whether the person is classified as an employee, independent contractor, or consultant, and is in, or had, a position with direct ongoing contact with students in a supervisory role or position of authority. "Employee" does not include a person who was employed by the institution in temporary student employment while the person was an enrolled student unless the student, at the time of employment, is or was a graduate student in a position in which the graduate student has or had a supervisory role or authority over other students. "Employee" does not include a person employed as medical staff or with an affiliated organization, entity, or extension of a postsecondary educational institution, unless the employee has or had a supervisory role or position of authority over students. A person who would be considered an "employee" under this subsection, remains an "employee" even if the person enrolls in classes under an institution's employee tuition waiver program or similar program that allows faculty, staff, or other employees to take classes.

(((~~(3)~~))) (4) "Employer" includes postsecondary educational institutions in this or any other state.

(((~~(4)~~))) (5) "Investigation" means a procedure initiated in response to a formal complaint, as defined in 34 C.F.R. Sec. 106.30, provided that the procedure fully complies with the provisions of 34 C.F.R. Sec. 106.45.

(6) "Postsecondary educational institution" means an institution of higher education as defined in RCW 28B.10.016, a degree-granting institution as defined in RCW 28B.85.010, a private vocational school as defined in RCW 28C.10.020, or school as defined in RCW 18.16.020, that participates in the state student financial aid program.

(((~~(5)~~))) (7) "Sexual misconduct" includes, but is not limited to, unwelcome sexual contact, unwelcome sexual advances, requests for sexual favors, other unwelcome verbal, nonverbal, electronic, or physical conduct of a sexual nature, sexual harassment, and any misconduct of a sexual nature that is in violation of the postsecondary educational institution's policies or has been determined to constitute sex discrimination pursuant to state or federal law.

(((~~(6)~~))) (8) "Student" means a person enrolled at a postsecondary educational institution and for whom educational records are maintained.

(9) "Substantiated findings" means a written determination regarding responsibility as described in 34 C.F.R. Sec. 106.45(b)(7) prepared at the conclusion of an investigation, as amended by any appeals process.

Sec. 3. RCW 28B.112.080 and 2020 c 335 s 6 are each amended to read as follows:

(1) Beginning October 1, 2020, prior to an official offer of employment to an applicant, a postsecondary educational institution shall request the applicant to sign a statement:

(a) Declaring whether the applicant is the subject of any substantiated findings of sexual misconduct in any current or former employment or by any association with which the applicant has, or has had, a professional relationship, is currently being investigated for, or has left a position during an investigation

into, a violation of any sexual misconduct policy at the applicant's current and past employers, and, if so, an explanation of the situation;

(b) Authorizing the applicant's current and past employers or relevant associations to disclose to the hiring institution any sexual misconduct committed by the applicant and making available to the hiring institution copies of all documents in the previous employer's personnel, investigative, or other files relating to sexual misconduct, including sexual harassment, by the applicant; and

(c) Releasing the applicant's current and past employers or relevant associations, and employees acting on behalf of that employer or association, from any liability for providing information described in (b) of this subsection.

(2) Beginning July 1, 2021, prior to an official offer of employment to an applicant, a postsecondary educational institution shall:

(a) Request in writing, electronic or otherwise, that the applicant's current and past postsecondary educational institution employers, or relevant associations when a finding has been declared by the applicant, provide the information, if any, described in subsection (1)(b) of this section. The request must include a copy of the declaration and statement signed by the applicant under subsection (1) of this section; and

(b) Ask the applicant if the applicant is the subject of any substantiated findings of sexual misconduct, or is currently being investigated for, or has left a position during an investigation into, a violation of any sexual misconduct policy at the applicant's current and past employers, and, if so, an explanation of the situation.

(3)(a) Pursuant to (c) of this subsection, after receiving a request under subsection (2)(a) of this section, a postsecondary educational institution shall provide the information requested and make available to the requesting institution copies of documents in the applicant's personnel record relating to substantiated findings of sexual misconduct.

(b) Pursuant to (c) of this subsection, if a postsecondary educational institution has information about substantiated findings of a current or former employee's sexual misconduct in the employee's personnel file or employment records, unless otherwise prohibited by law, the institution shall disclose that information to any employer conducting reference or background checks on the current or former employee for the purposes of potential employment, even if the employer conducting the reference or background check does not specifically ask for such information.

(c) If, by June 11, 2020, a postsecondary educational institution does not have existing procedures for disclosing information requested under this subsection, the institution must establish procedures to begin implementing the disclosure requirements of this subsection no later than July 1, 2021.

(4)(a) The postsecondary educational institution or an employee acting on behalf of the institution, who discloses information under this section is presumed to be acting in good faith and is immune from civil and criminal liability for the disclosure.

(b) A postsecondary educational institution is not liable for any cause of action arising from nondisclosure of information by an employee without access to official personnel records who is asked to respond to a reference check.

(c) The duty to disclose information under this section is the responsibility of the postsecondary educational institution to respond to a formal request for personnel records relating to a current or prior employee when requested by another employer.

(5)(a) When disclosing information under this section, the postsecondary educational institution shall keep personal identifying information of the complainant and any witnesses confidential, unless the complainant or witnesses agree to disclosure of their identifying information.

(b) Personal identifying information that reveals the identity of the complainant and any witnesses is exempt from public disclosure pursuant to RCW 42.56.375.

(6) Beginning October 1, 2020, a postsecondary educational institution may not hire an applicant who does not sign the statement described in subsection (1) of this section.

(7) Information received under this section may be used by a postsecondary educational institution only for the purpose of evaluating an applicant's qualifications for employment in the position for which the person has applied.

(8) This section does not restrict expungement from a personnel file or employment records of information about alleged sexual misconduct that has not been substantiated.

(9) Public institutions of higher education shall share best practices with all faculty and staff who are likely to receive reference check requests about how to inform and advise requesters to contact the institution's appropriate official office for personnel records.

(10) The student achievement council shall convene a work group and report to the legislature by November 30, 2024, regarding the ability of institutions of higher education to consider if applicants or current employees have committed sexual misconduct at meetings or conferences of academic and professional associations; and, how institutions of higher education and Washington agencies may encourage adoption of policies and procedures regarding sexual misconduct committed at such association events.

Passed by the House March 8, 2023.
Passed by the Senate April 5, 2023.
Approved by the Governor April 13, 2023.
Filed in Office of Secretary of State April 13, 2023.

CHAPTER 80

[House Bill 1544]

SHORELINE MASTER PROGRAMS—REVIEW SCHEDULE

AN ACT Relating to shoreline master program review schedules; amending RCW 90.58.080 and 90.58.080; providing an effective date; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 90.58.080 and 2011 c 353 s 13 are each amended to read as follows:

(1) Local governments shall develop or amend a master program for regulation of uses of the shorelines of the state consistent with the required

elements of the guidelines adopted by the department in accordance with the schedule established by this section.

(2)(a) Subject to the provisions of subsections (5) and (6) of this section, each local government subject to this chapter shall develop or amend its master program for the regulation of uses of shorelines within its jurisdiction according to the following schedule:

(i) On or before December 1, 2005, for the city of Port Townsend, the city of Bellingham, the city of Everett, Snohomish county, and Whatcom county;

(ii) On or before December 1, 2009, for King county and the cities within King county greater in population than ten thousand;

(iii) Except as provided by (a)(i) and (ii) of this subsection, on or before December 1, 2011, for Clallam, Clark, Jefferson, King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties and the cities within those counties;

(iv) On or before December 1, 2012, for Cowlitz, Island, Lewis, Mason, San Juan, Skagit, and Skamania counties and the cities within those counties;

(v) On or before December 1, 2013, for Benton, Chelan, Douglas, Grant, Kittitas, Spokane, and Yakima counties and the cities within those counties; and

(vi) On or before December 1, 2014, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

(b) Nothing in this subsection (2) shall preclude a local government from developing or amending its master program prior to the dates established by this subsection (2).

(3)(a) Following approval by the department of a new or amended master program, local governments required to develop or amend master programs on or before December 1, 2009, as provided by subsection (2)(a)(i) and (ii) of this section, shall be deemed to have complied with the schedule established by subsection (2)(a)(iii) of this section and shall not be required to complete master program amendments until the applicable dates established by subsection (4)(b) of this section. Any jurisdiction listed in subsection (2)(a)(i) of this section that has a new or amended master program approved by the department on or after March 1, 2002, but before July 27, 2003, shall not be required to complete master program amendments until the applicable date provided by subsection (4)(b) of this section.

(b) Following approval by the department of a new or amended master program, local governments choosing to develop or amend master programs on or before December 1, 2009, shall be deemed to have complied with the schedule established by subsection (2)(a)(iii) through (vi) of this section and shall not be required to complete master program amendments until the applicable dates established by subsection (4)(b) of this section.

(4)(a) Following the updates required by subsection (2) of this section, local governments shall conduct a review of their master programs at least once every ((~~eight~~)) 10 years as required by (b) of this subsection. Following the review required by this subsection (4), local governments shall, if necessary, revise their master programs. The purpose of the review is:

(i) To assure that the master program complies with applicable law and guidelines in effect at the time of the review; and

(ii) To assure consistency of the master program with the local government's comprehensive plan and development regulations adopted under chapter 36.70A RCW, if applicable, and other local requirements.

(b) Counties and cities shall take action to review and, if necessary, revise their master programs as required by (a) of this subsection as follows:

(i) On or before June 30, 2019, and every ((~~eight~~)) 10 years thereafter, for King, Pierce, and Snohomish counties and the cities within those counties;

(ii) On or before June 30, 2020, and every ((~~eight~~)) 10 years thereafter, for Clallam, Clark, Island, Jefferson, Kitsap, Mason, San Juan, Skagit, Thurston, and Whatcom counties and the cities within those counties;

(iii) On or before June 30, 2021, and every ((~~eight~~)) 10 years thereafter, for Benton, Chelan, Cowlitz, Douglas, Grant, Kittitas, Lewis, Skamania, Spokane, and Yakima counties and the cities within those counties; and

(iv) On or before June 30, 2022, and every ((~~eight~~)) 10 years thereafter, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

(5) In meeting the update requirements of subsection (2) of this section, local governments are encouraged to begin the process of developing or amending their master programs early and are eligible for grants from the department as provided by RCW 90.58.250, subject to available funding. Except for those local governments listed in subsection (2)(a)(i) and (ii) of this section, the deadline for completion of the new or amended master programs shall be two years after the date the grant is approved by the department. Subsequent master program review dates shall not be altered by the provisions of this subsection.

(6) In meeting the update requirements of subsection (2) of this section, the following shall apply:

(a) Grants to local governments for developing and amending master programs pursuant to the schedule established by this section shall be provided at least two years before the adoption dates specified in subsection (2) of this section. To the extent possible, the department shall allocate grants within the amount appropriated for such purposes to provide reasonable and adequate funding to local governments that have indicated their intent to develop or amend master programs during the biennium according to the schedule established by subsection (2) of this section. Any local government that applies for but does not receive funding to comply with the provisions of subsection (2) of this section may delay the development or amendment of its master program until the following biennium.

(b) Local governments with delayed compliance dates as provided in (a) of this subsection shall be the first priority for funding in subsequent biennia, and the development or amendment compliance deadline for those local governments shall be two years after the date of grant approval.

(c) Failure of the local government to apply in a timely manner for a master program development or amendment grant in accordance with the requirements of the department shall not be considered a delay resulting from the provisions of (a) of this subsection.

(7) In meeting the update requirements of subsection (2) of this section, all local governments subject to the requirements of this chapter that have not developed or amended master programs on or after March 1, 2002, shall, no later

than December 1, 2014, develop or amend their master programs to comply with guidelines adopted by the department after January 1, 2003.

(8) In meeting the update requirements of subsection (2) of this section, local governments may be provided an additional year beyond the deadlines in this section to complete their master program or amendment. The department shall grant the request if it determines that the local government is likely to adopt or amend its master program within the additional year.

Sec. 2. RCW 90.58.080 and 2020 c 113 s 2 are each amended to read as follows:

(1) Local governments shall develop or amend a master program for regulation of uses of the shorelines of the state consistent with the required elements of the guidelines adopted by the department in accordance with the schedule established by this section.

(2)(a) Subject to the provisions of subsections (5) and (6) of this section, each local government subject to this chapter shall develop or amend its master program for the regulation of uses of shorelines within its jurisdiction according to the following schedule:

(i) On or before December 1, 2005, for the city of Port Townsend, the city of Bellingham, the city of Everett, Snohomish county, and Whatcom county;

(ii) On or before December 1, 2009, for King county and the cities within King county greater in population than ten thousand;

(iii) Except as provided by (a)(i) and (ii) of this subsection, on or before December 1, 2011, for Clallam, Clark, Jefferson, King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties and the cities within those counties;

(iv) On or before December 1, 2012, for Cowlitz, Island, Lewis, Mason, San Juan, Skagit, and Skamania counties and the cities within those counties;

(v) On or before December 1, 2013, for Benton, Chelan, Douglas, Grant, Kittitas, Spokane, and Yakima counties and the cities within those counties; and

(vi) On or before December 1, 2014, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

(b) Nothing in this subsection (2) shall preclude a local government from developing or amending its master program prior to the dates established by this subsection (2).

(3)(a) Following approval by the department of a new or amended master program, local governments required to develop or amend master programs on or before December 1, 2009, as provided by subsection (2)(a)(i) and (ii) of this section, shall be deemed to have complied with the schedule established by subsection (2)(a)(iii) of this section and shall not be required to complete master program amendments until the applicable dates established by subsection (4)(b) of this section. Any jurisdiction listed in subsection (2)(a)(i) of this section that has a new or amended master program approved by the department on or after March 1, 2002, but before July 27, 2003, shall not be required to complete master program amendments until the applicable date provided by subsection (4)(b) of this section.

(b) Following approval by the department of a new or amended master program, local governments choosing to develop or amend master programs on

or before December 1, 2009, shall be deemed to have complied with the schedule established by subsection (2)(a)(iii) through (vi) of this section and shall not be required to complete master program amendments until the applicable dates established by subsection (4)(b) of this section.

(4)(a) Following the updates required by subsection (2) of this section, local governments shall conduct a review of their master programs at least once every ((~~eight~~)) 10 years as required by (b) of this subsection. Following the review required by this subsection (4), local governments shall, if necessary, revise their master programs. The purpose of the review is:

(i) To assure that the master program complies with applicable law and guidelines in effect at the time of the review; and

(ii) To assure consistency of the master program with the local government's comprehensive plan and development regulations adopted under chapter 36.70A RCW, if applicable, and other local requirements.

(b) Counties and cities shall take action to review and, if necessary, revise their master programs as required by (a) of this subsection as follows:

(i) On or before June 30, ((~~2028~~)) 2029, and every ((~~eight~~)) 10 years thereafter, for King, Kitsap, Pierce, and Snohomish counties and the cities within those counties;

(ii) On or before June 30, ((~~2029~~)) 2030, and every ((~~eight~~)) 10 years thereafter, for Clallam, Clark, Island, Jefferson, Lewis, Mason, San Juan, Skagit, Thurston, and Whatcom counties and the cities within those counties;

(iii) On or before June 30, ((~~2030~~)) 2031, and every ((~~eight~~)) 10 years thereafter, for Benton, Chelan, Cowlitz, Douglas, Franklin, Kittitas, Skamania, Spokane, Walla Walla, and Yakima counties and the cities within those counties; and

(iv) On or before June 30, ((~~2031~~)) 2032, and every ((~~eight~~)) 10 years thereafter, for Adams, Asotin, Columbia, Ferry, Garfield, Grant, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, and Whitman counties and the cities within those counties.

(5) In meeting the review requirements of subsection (4) of this section, local governments are encouraged to begin the process of developing or amending their master programs early and are eligible for grants from the department as provided by RCW 90.58.250, subject to available funding. Except for those local governments listed in subsection (2)(a)(i) and (ii) of this section, the deadline for completion of the new or amended master programs shall be two years after the date the grant is approved by the department. Subsequent master program review dates shall not be altered by the provisions of this subsection.

(6) In meeting the review requirements of subsection (4) of this section, the following shall apply:

(a) Grants to local governments for reviewing master programs pursuant to the schedule established by this section shall be provided at least two years before the adoption dates specified in subsection (4) of this section. To the extent possible, the department shall allocate grants within the amount appropriated for such purposes to provide reasonable and adequate funding to local governments that have indicated their intent to develop or amend master programs during the biennium according to the schedule established by subsection (4) of this section. Any local government that applies for but does not receive funding to comply

with the provisions of subsection (4) of this section may delay the development or amendment of its master program until the following biennium.

(b) Local governments with delayed compliance dates as provided in (a) of this subsection shall be the first priority for funding in subsequent biennia, and the periodic review compliance deadline for those local governments shall be two years after the date of grant approval.

(c) Failure of the local government to apply in a timely manner for a master program development or amendment grant in accordance with the requirements of the department shall not be considered a delay resulting from the provisions of (a) of this subsection.

(7) In meeting the update requirements of subsection (2) of this section, all local governments subject to the requirements of this chapter that have not developed or amended master programs on or after March 1, 2002, shall, no later than December 1, 2014, develop or amend their master programs to comply with guidelines adopted by the department after January 1, 2003.

(8) In meeting the review requirements of subsection (4) of this section, local governments may be provided an additional year beyond the deadlines in this section to complete their master program or amendment. The department shall grant the request if it determines that the local government is likely to adopt or amend its master program within the additional year.

NEW SECTION. **Sec. 3.** Section 1 of this act expires July 1, 2025.

NEW SECTION. **Sec. 4.** Section 2 of this act takes effect July 1, 2025.

Passed by the House February 9, 2023.
Passed by the Senate March 31, 2023.
Approved by the Governor April 13, 2023.
Filed in Office of Secretary of State April 13, 2023.

CHAPTER 81

[Substitute House Bill 1572]
RECOVERY OF TAXES—VENUE

AN ACT Relating to venue for actions for the recovery of taxes; amending RCW 84.68.050; creating new sections; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that, in *Hardel Mut. Plywood Corp. v. Lewis Cty.,* 200 Wn.2d 199 (2022), the state supreme court held that RCW 36.01.050 did not apply to tax refund lawsuits against counties despite the legislature's intent that it apply to "all actions against any county." Therefore, the legislature finds it necessary to reaffirm the legislature's intent to provide all plaintiffs with actions against counties access to a neutral forum by clarifying that RCW 84.68.050 and 36.01.050 both apply to allow taxpayers a choice of venue in tax refund lawsuits. The legislature intends to make this amendment retroactively and prospectively to conform the venue provisions applying to tax refund lawsuits against counties to the original intent of the legislature.

Sec. 2. RCW 84.68.050 and 1989 c 378 s 29 are each amended to read as follows:

The action for the recovery of taxes so paid under protest shall be brought in the superior court of the county wherein the tax was collected or, for actions solely against one county, in any superior court permitted under RCW 36.01.050, or in any federal court of competent jurisdiction: PROVIDED, That where the property against which the tax is levied consists of the operating property of a railroad company, telegraph company or other public service company whose operating property is located in more than one county and is assessed as a unit by any state board or state officer or officers, the complaining taxpayer may institute such action in the superior court of any one of the counties in which such tax is payable, or in any federal court of competent jurisdiction, and may join as parties defendant in said action all of the counties to which the tax or taxes levied upon such operating property were paid or are payable, and may recover in one action from each of the county defendants the amount of the tax, or any portion thereof, so paid under protest, and adjudged to have been unlawfully collected, together with interest thereon at the rate specified in RCW 84.69.100 from date of payment, and costs of suit.

NEW SECTION. **Sec. 3.** The purpose of this act is curative and remedial, and it applies retroactively and prospectively to all actions filed under RCW 84.68.050, regardless of when they were filed. Any change in venue as a result of *Hardel Mut. Plywood Corp. v. Lewis Cty.,* 200 Wn.2d 199 (2022) may be reversed at the motion of the plaintiff.

NEW SECTION. **Sec. 4.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House March 1, 2023.
Passed by the Senate March 31, 2023.
Approved by the Governor April 13, 2023.
Filed in Office of Secretary of State April 13, 2023.

CHAPTER 82

[Substitute House Bill 1620]

CITY OR TOWN INCORPORATION—NUMBER OF INHABITANTS REQUIRED

AN ACT Relating to the number of inhabitants required for incorporation as a city or town; amending RCW 35.02.010 and 35.02.010; providing an effective date; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 35.02.010 and 1994 c 216 s 12 are each amended to read as follows:

Any contiguous area containing not less than ((~~one thousand five hundred~~)) 1,500 inhabitants lying outside the limits of an incorporated city or town may become incorporated as a city or town operating under Title 35 or 35A RCW as provided in this chapter((~~: PROVIDED, That no area which lies within five air miles of the boundary of any city having a population of fifteen thousand or more shall be incorporated which contains less than three thousand inhabitants~~)).

Sec. 2. RCW 35.02.010 and 1994 c 216 s 12 are each amended to read as follows:

Any contiguous area containing not less than ((~~one thousand five hundred~~)) 1,500 inhabitants lying outside the limits of an incorporated city or town may become incorporated as a city or town operating under Title 35 or 35A RCW as provided in this chapter: PROVIDED, That no area which lies within five air miles of the boundary of any city having a population of ((~~fifteen thousand~~)) 15,000 or more shall be incorporated which contains less than ((~~three thousand~~)) 3,000 inhabitants.

NEW SECTION. **Sec. 3.** Section 1 of this act expires June 30, 2028.

NEW SECTION. **Sec. 4.** Section 2 of this act takes effect June 30, 2028.

Passed by the House February 9, 2023.
Passed by the Senate March 31, 2023.
Approved by the Governor April 13, 2023.
Filed in Office of Secretary of State April 13, 2023.

CHAPTER 83

[House Bill 1624]

EDUCATIONAL SERVICE DISTRICT ELECTIONS—USE OF MAIL

AN ACT Relating to administering educational service district elections; and amending RCW 28A.310.090 and 28A.310.100.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 28A.310.090 and 2022 c 79 s 7 are each amended to read as follows:

Candidates for membership on an educational service district board shall file declarations of candidacy with the Washington state school directors' association on forms prepared by the association. Declarations of candidacy may be filed ((~~by person or by mail not~~)) no earlier than the first day of September, nor later than the 16th day of September. The association may not accept any declaration of candidacy that is not ((~~on file in its office or is not postmarked~~)) received before the 17th day of September.

Sec. 2. RCW 28A.310.100 and 2022 c 79 s 8 are each amended to read as follows:

Each member of an educational service district board shall be elected by a majority of the votes cast at the election for all candidates for the position. All votes shall be cast ((~~by mail addressed to~~)) on forms developed by the Washington state school directors' association and no votes shall be accepted for counting if ((~~postmarked~~)) received after the 16th day of October ((~~or if not postmarked or the postmark is not legible, if received by mail after the 21st day of October following the call of the election~~)). The executive director of the Washington state school directors' association and an election board comprised of three persons appointed by the association shall count and tally the votes not later than the 25th day of October in the following manner: Each vote cast by a school director shall be accorded as one vote. If no candidate receives a majority of the votes cast, then, not later than the first day of November, the executive director of the Washington state school directors' association shall call a second election to be conducted in the same manner and at which the candidates shall be the two candidates receiving the highest number of votes cast. No vote cast at

such second election shall be received for counting ((~~if postmarked~~)) after the 16th day of November ((~~or if not postmarked or the postmark is not legible, if received by mail after the 21st day of November~~)) and the votes shall be counted as hereinabove provided on the 25th day of November. The candidate receiving a majority of votes at any such second election shall be declared elected. In the event of a tie in such second election, the candidate elected shall be determined by a chance drawing of a nature established by the executive director of the Washington state school directors' association. Within 10 days following the count of votes in an election at which a member of an educational service district board is elected, the executive director of the Washington state school directors' association shall certify to the county auditor of the headquarters county of the educational service district the name or names of the persons elected to be members of the educational service district board.

Passed by the House February 28, 2023.
Passed by the Senate April 5, 2023.
Approved by the Governor April 13, 2023.
Filed in Office of Secretary of State April 13, 2023.

CHAPTER 84

[House Bill 1645]

COUNTY LEGISLATIVE AUTHORITIES—MEETING LOCATIONS

AN ACT Relating to meetings of county legislative authorities; and amending RCW 36.32.080.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 36.32.080 and 2016 c 189 s 1 are each amended to read as follows:

(1) The county legislative authority of each county shall hold regular meetings at the county seat or at a location designated in accordance with subsection (2) or (3) of this section to transact any business required or permitted by law.

(2)(a) Any two or more county legislative authorities may hold a joint regular meeting solely in the county seat of a participating county if the agenda item or items relate to actions or considerations of mutual interest or concern to the participating legislative authorities.

(b) A legislative authority participating in a joint regular meeting held in accordance with this subsection (2) must, for purposes of the meeting, comply with notice requirements for special meetings provided in RCW 42.30.080. This subsection (2)(b) does not apply to the legislative authority of the county in which the meeting will be held.

(3)(a) As an alternative option ((~~that may be exercised no more than once per calendar quarter~~)), regular meetings may be held at a location outside of the county seat but within the county if the county legislative authority determines that holding a meeting at an alternate location would be in the interest of supporting greater citizen engagement in local government at the following intervals:

(i) Once per calendar month in a city with a greater population than the city in which the county seat is located; and

(ii) Once per calendar quarter in any other location.

(b) No more than one meeting per calendar month may be held at an alternate location as provided for in this subsection (3).

((~~(b)~~)) (c) The county legislative authority must give notice of any regular meeting held pursuant to this subsection (3) at least ((~~thirty~~)) 30 days before the time of the meeting specified in the notice. At a minimum, notice must be:

(i) Posted on the county's website;

(ii) Published in a newspaper of general circulation in the county; and

(iii) Sent via electronic transmission to any resident of the county who has chosen to receive the notice required under this section at an email address.

Passed by the House March 4, 2023.
Passed by the Senate March 31, 2023.
Approved by the Governor April 13, 2023.
Filed in Office of Secretary of State April 13, 2023.

CHAPTER 85

[House Bill 1656]

UNEMPLOYMENT INSURANCE BENEFITS—APPEAL PROCEDURES

AN ACT Relating to unemployment insurance benefits appeal procedures; amending RCW 50.32.040; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 50.32.040 and 2003 2nd sp.s. c 4 s 32 are each amended to read as follows:

In any proceeding before an appeal tribunal involving ((~~a~~)):

(1) A dispute of an individual's initial determination, determination of allowance or denial of allowance of benefits, or redetermination of allowance or denial of benefits, all matters covered by such initial determination, determination, or redetermination shall be deemed to be in issue irrespective of the particular ground or grounds set forth in the notice of appeal.

((~~In any proceeding before an appeal tribunal involving a dispute of an individual's claim for waiting period credit or claim for benefits, all matters and provisions of this title relating to the individual's right to receive such credit or benefits for the period in question, including but not limited to the question and nature of the claimant's availability for work within the meaning of RCW 50.20.010(1)(c) and 50.20.080, shall be deemed to be in issue irrespective of the particular ground or grounds set forth in the notice of appeal in single claimant cases. The claimant's availability for work shall be determined apart from all other matters.~~

~~In any proceeding before an appeal tribunal involving an~~)) (2) An individual's right to benefits, all parties shall be afforded an opportunity for hearing after not less than seven days' notice in accordance with RCW 34.05.434.

((~~In any proceeding involving an~~)) (3) An appeal relating to benefit determinations or benefit claims, the appeal tribunal, after affording the parties reasonable opportunity for fair hearing, shall render its decision affirming, modifying, or setting aside the determination or decisions of the unemployment compensation division. The parties shall be duly notified of such appeal

tribunal's decision together with its reasons therefor, which shall be deemed to be the final decision on the initial determination or the claim for waiting period credit or the claim for benefits unless, within thirty days after the date of notification or mailing, whichever is the earlier, of such decision, further appeal is perfected pursuant to the provisions of this title relating to review by the commissioner.

NEW SECTION. **Sec. 2.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state.

Passed by the House March 4, 2023.
Passed by the Senate March 31, 2023.
Approved by the Governor April 13, 2023.
Filed in Office of Secretary of State April 13, 2023.

CHAPTER 86

[House Bill 1657]

MARRIAGE—SOLEMNIZATION BY FEDERAL JUDICIAL OFFICERS

AN ACT Relating to the authority of justices, judges, and judicial officers of federal courts to solemnize marriages; and amending RCW 26.04.050.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 26.04.050 and 2019 c 52 s 2 are each amended to read as follows:

The following named officers and persons, active or retired, are hereby authorized to solemnize marriages, to wit: Justices of the supreme court((,)); judges of the court of appeals((,)); judges of the superior courts((,)); supreme court commissioners((,)); court of appeals commissioners((,)); superior court commissioners((,)); judges and commissioners of courts of limited jurisdiction as defined in RCW 3.02.010((,)); justices of the supreme court of the United States; judges and judicial officers of the federal courts; judges of tribal courts from a federally recognized tribe((,)); and any regularly licensed or ordained minister or any priest, imam, rabbi, or similar official of any religious organization. The solemnization of a marriage by a tribal court judge pursuant to authority under this section does not create tribal court jurisdiction and does not affect state court authority as otherwise provided by law to enter a judgment for purposes of any dissolution, legal separation, or other proceedings related to the marriage that is binding on the parties and entitled to full faith and credit.

Passed by the House February 13, 2023.
Passed by the Senate March 31, 2023.
Approved by the Governor April 13, 2023.
Filed in Office of Secretary of State April 13, 2023.

CHAPTER 87

[Substitute Senate Bill 5338]

ESSENTIAL HEALTH BENEFITS—REVIEW

AN ACT Relating to a review of the state's essential health benefits; amending RCW 48.43.715; creating a new section; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The office of the insurance commissioner, in consultation with relevant interested persons and entities, shall review Washington's benchmark plan establishing the state's essential health benefits to determine whether to request approval from the centers for medicare and medicaid services under 45 C.F.R. Sec. 156.111 to modify the state's essential health benefits benchmark plan.

(2) As part of its review, the office shall determine the potential impacts on individual and small group health plan design, actuarial values, and premium rates if coverage for each of the following was included as an essential health benefit:

(a) Donor human milk as provided in RCW 48.43.815 and directed by RCW 48.43.715;

(b) Hearing instruments and associated services as described in section 1, chapter . . . (House Bill No. 1222), Laws of 2023 and directed by RCW 48.43.715;

(c) Fertility services;

(d) Biomarker testing;

(e) Contralateral prophylactic mastectomies;

(f) Treatment for pediatric acute-onset neuropsychiatric syndrome and pediatric autoimmune neuropsychiatric disorders associated with streptococcal infections; and

(g) Magnetic resonance imaging for breast cancer screening.

(3) By December 31, 2023, the office shall report the results of the review to the relevant committees of the legislature, including any findings related to modifying the state's essential health benefits.

Sec. 2. RCW 48.43.715 and 2022 c 236 s 2 are each amended to read as follows:

(1) ((~~The~~)) Until the effective date of an updated essential health benefits benchmark plan submitted under section 1 of this act, the commissioner, in consultation with the board and the health care authority, shall, by rule, select the largest small group plan in the state by enrollment as the benchmark plan for the individual and small group market for purposes of establishing the essential health benefits in Washington state.

(2) If the essential health benefits benchmark plan for the individual and small group market does not include all of the ((~~ten~~)) 10 essential health benefits categories, the commissioner, in consultation with the board and the health care authority, shall, by rule, supplement the benchmark plan benefits as needed.

(3) All individual and small group health plans must cover the ((~~ten~~)) 10 essential health benefits categories, other than a health plan offered through the federal basic health program, a grandfathered health plan, or medicaid. Such a health plan may not be offered in the state unless the commissioner finds that it

is substantially equal to the benchmark plan. When making this determination, the commissioner:

(a) Must ensure that the plan covers the ((~~ten~~)) 10 essential health benefits categories;

(b) May consider whether the health plan has a benefit design that would create a risk of biased selection based on health status and whether the health plan contains meaningful scope and level of benefits in each of the ten essential health benefits categories;

(c) Notwithstanding (a) and (b) of this subsection, for benefit years beginning January 1, 2015, must establish by rule the review and approval requirements and procedures for pediatric oral services when offered in stand-alone dental plans in the nongrandfathered individual and small group markets outside of the exchange; and

(d) Must allow health carriers to also offer pediatric oral services within the health benefit plan in the nongrandfathered individual and small group markets outside of the exchange.

(4) Beginning December 15, 2012, and every year thereafter, the commissioner shall submit to the legislature a list of state-mandated health benefits, the enforcement of which will result in federally imposed costs to the state related to the plans sold through the exchange because the benefits are not included in the essential health benefits designated under federal law. The list must include the anticipated costs to the state of each state-mandated health benefit on the list and any statutory changes needed if funds are not appropriated to defray the state costs for the listed mandate. The commissioner may enforce a mandate on the list for the entire market only if funds are appropriated in an omnibus appropriations act specifically to pay the state portion of the identified costs.

(5) ((~~Upon authorization by the legislature to modify the state's essential health benefits benchmark plan under 45 C.F.R. Sec. 156.111, the~~)) The commissioner shall include coverage for donor human milk as provided in RCW 48.43.815 and hearing instruments and associated services as described in section 1, chapter . . . (House Bill No. 1222), Laws of 2023, in ((~~the updated plan~~)) any update of the state's essential health benefits benchmark plan submitted to the centers for medicare and medicaid services under section 1 of this act.

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.

Passed by the Senate April 5, 2023.
Passed by the House March 20, 2023.
Approved by the Governor April 13, 2023.
Filed in Office of Secretary of State April 13, 2023.

CHAPTER 88

[Senate Bill 5088]

CONTRACTOR REGISTRATION AND LICENSING—REFERENCES

AN ACT Relating to adding references to contractor registration and licensing laws in workers' compensation, public works, and prevailing wage statutes; and amending RCW 39.04.350,

39.06.020, 39.12.050, 39.12.055, 39.12.065, 39.12.100, 51.08.070, 51.08.180, 51.08.181, 51.12.070, 51.12.120, 51.16.070, and 51.48.022.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 39.04.350 and 2020 c 255 s 2 are each amended to read as follows:

(1) Before award of a public works contract, a bidder must meet the following responsibility criteria to be considered a responsible bidder and qualified to be awarded a public works project. The bidder must:

(a) At the time of bid submittal, have a certificate of registration in compliance with chapter 18.27 RCW, a plumbing contractor license in compliance with chapter 18.106 RCW, an elevator contractor license in compliance with chapter 70.87 RCW, or an electrical contractor license in compliance with chapter 19.28 RCW, as required under the provisions of those chapters;

(b) Have a current state unified business identifier number;

(c) If applicable, have industrial insurance coverage for the bidder's employees working in Washington as required in Title 51 RCW; an employment security department number as required in Title 50 RCW; and a state excise tax registration number as required in Title 82 RCW;

(d) Not be disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065(3);

(e) If bidding on a public works project subject to the apprenticeship utilization requirements in RCW 39.04.320, not have been found out of compliance by the Washington state apprenticeship and training council for working apprentices out of ratio, without appropriate supervision, or outside their approved work processes as outlined in their standards of apprenticeship under chapter 49.04 RCW for the one-year period immediately preceding the date of the bid solicitation;

(f) Have received training on the requirements related to public works and prevailing wage under this chapter and chapter 39.12 RCW. The bidder must designate a person or persons to be trained on these requirements. The training must be provided by the department of labor and industries or by a training provider whose curriculum is approved by the department. The department, in consultation with the prevailing wage advisory committee, must determine the length of the training. Bidders that have completed three or more public works projects and have had a valid business license in Washington for three or more years are exempt from this subsection. The department of labor and industries must keep records of entities that have satisfied the training requirement or are exempt and make the records available on its website. Responsible parties may rely on the records made available by the department regarding satisfaction of the training requirement or exemption; and

(g) Within the three-year period immediately preceding the date of the bid solicitation, not have been determined by a final and binding citation and notice of assessment issued by the department of labor and industries or through a civil judgment entered by a court of limited or general jurisdiction to have willfully violated, as defined in RCW 49.48.082, any provision of chapter 49.46, 49.48, or 49.52 RCW.

(2) Before award of a public works contract, a bidder shall submit to the contracting agency a signed statement in accordance with chapter 5.50 RCW

verifying under penalty of perjury that the bidder is in compliance with the responsible bidder criteria requirement of subsection (1)(g) of this section. A contracting agency may award a contract in reasonable reliance upon such a sworn statement.

(3) In addition to the bidder responsibility criteria in subsection (1) of this section, the state or municipality may adopt relevant supplemental criteria for determining bidder responsibility applicable to a particular project which the bidder must meet.

(a) Supplemental criteria for determining bidder responsibility, including the basis for evaluation and the deadline for appealing a determination that a bidder is not responsible, must be provided in the invitation to bid or bidding documents.

(b) In a timely manner before the bid submittal deadline, a potential bidder may request that the state or municipality modify the supplemental criteria. The state or municipality must evaluate the information submitted by the potential bidder and respond before the bid submittal deadline. If the evaluation results in a change of the criteria, the state or municipality must issue an addendum to the bidding documents identifying the new criteria.

(c) If the bidder fails to supply information requested concerning responsibility within the time and manner specified in the bid documents, the state or municipality may base its determination of responsibility upon any available information related to the supplemental criteria or may find the bidder not responsible.

(d) If the state or municipality determines a bidder to be not responsible, the state or municipality must provide, in writing, the reasons for the determination. The bidder may appeal the determination within the time period specified in the bidding documents by presenting additional information to the state or municipality. The state or municipality must consider the additional information before issuing its final determination. If the final determination affirms that the bidder is not responsible, the state or municipality may not execute a contract with any other bidder until two business days after the bidder determined to be not responsible has received the final determination.

(e) If the bidder has a history of receiving monetary penalties for not achieving the apprentice utilization requirements pursuant to RCW 39.04.320, or is habitual in utilizing the good faith effort exception process, the bidder must submit an apprenticeship utilization plan within ten business days immediately following the notice to proceed date.

(4) The capital projects advisory review board created in RCW 39.10.220 shall develop suggested guidelines to assist the state and municipalities in developing supplemental bidder responsibility criteria. The guidelines must be posted on the board's website.

Sec. 2. RCW 39.06.020 and 2007 c 133 s 3 are each amended to read as follows:

A public works contractor must verify responsibility criteria for each first tier subcontractor, and a subcontractor of any tier that hires other subcontractors must verify responsibility criteria for each of its subcontractors. Verification shall include that each subcontractor, at the time of subcontract execution, meets the responsibility criteria listed in RCW 39.04.350(1) and possesses an electrical contractor license, if required by chapter 19.28 RCW, ((~~or~~)) an elevator

contractor license, if required by chapter 70.87 RCW, or a plumbing contractor license if required by chapter 18.106 RCW. This verification requirement, as well as the responsibility criteria, must be included in every public works contract and subcontract of every tier.

Sec. 3. RCW 39.12.050 and 2019 c 242 s 3 are each amended to read as follows:

(1) Any contractor or subcontractor who files a false statement or fails to file any statement or record required to be filed or fails to post a document required to be posted under this chapter and the rules adopted under this chapter, shall, after a determination to that effect has been issued by the director after hearing under chapter 34.05 RCW, forfeit as a civil penalty the sum of ((~~five hundred dollars~~)) $500 for each false filing or failure to file or post, and shall not be permitted to bid, or have a bid considered, on any public works contract until the penalty has been paid in full to the director. The civil penalty under this subsection does not apply to a violation determined by the director to be an inadvertent filing or reporting error. The burden of proving, by a preponderance of the evidence, that an error is inadvertent rests with the contractor or subcontractor charged with the error. Civil penalties shall be deposited in the public works administration account.

To the extent that a contractor or subcontractor has not paid wages at the rate due pursuant to RCW 39.12.020, and a finding to that effect has been made as provided by this subsection, such unpaid wages constitute a lien against the bonds and retainage as provided in RCW 18.27.040, 18.106.410, 19.28.041, 39.08.010, and 60.28.011.

(2) If a contractor or subcontractor is found to have violated the provisions of subsection (1) of this section for a second time within a five year period, the contractor or subcontractor is subject to the sanctions prescribed in subsection (1) of this section and shall not be allowed to bid on any public works contract for one year. The one year period runs from the date of notice by the director of the determination of noncompliance. When an appeal is taken from the director's determination, the one year period commences from the date the notice of violation becomes final.

The director shall issue his or her findings that a contractor or subcontractor has violated the provisions of this subsection after a hearing held subject to the provisions of chapter 34.05 RCW, unless a notice of violation is not timely appealed. A notice of violation not timely appealed is final and binding, and not subject to further appeal.

Sec. 4. RCW 39.12.055 and 2009 c 197 s 3 are each amended to read as follows:

A contractor shall not be allowed to bid on any public works contract for one year from the date of a final determination that the contractor has committed any combination of two of the following violations or infractions within a five-year period:

(1) Violated RCW 51.48.020(1) or 51.48.103;

(2) Committed an infraction or violation under chapter 18.27, 18.106, 19.28, or 70.87 RCW for performing work as an unregistered or unlicensed contractor; or

(3) Determined to be out of compliance by the Washington state apprenticeship and training council for working apprentices out of ratio, without appropriate supervision, or outside their approved work processes as outlined in their standards of apprenticeship under chapter 49.04 RCW.

Sec. 5. RCW 39.12.065 and 2019 c 242 s 4 are each amended to read as follows:

(1) Upon complaint by an interested party, the director of labor and industries shall cause an investigation to be made to determine whether there has been compliance with this chapter and the rules adopted hereunder, and if the investigation indicates that a violation may have occurred, the department of labor and industries may issue a notice of violation for unpaid wages, penalties, and interest on all wages owed at one percent per month. A hearing shall be held following a timely appeal of the notice of violation in accordance with chapter 34.05 RCW. The director shall issue a written determination including his or her findings after the hearing unless a notice of violation is not timely appealed. A notice of violation not timely appealed is final and binding, and not subject to further appeal. A judicial appeal from the director's determination may be taken in accordance with chapter 34.05 RCW, with the prevailing party entitled to recover reasonable costs and attorneys' fees.

A complaint concerning nonpayment of the prevailing rate of wage shall be filed with the department of labor and industries no later than ((~~sixty~~)) 60 days from the acceptance date of the public works project. The department may not charge a contractor or subcontractor with a violation of this section when responding to a complaint filed after the ((~~sixty-day~~)) 60-day limit. The failure to timely file such a complaint does not prohibit the department from investigating the matter and recovering unpaid wages for the worker(s) within two years from the acceptance of the public works contract. The department may not investigate or recover unpaid wages if the complaint is filed after two years from the acceptance of a public works contract. The failure to timely file such a complaint also does not prohibit a claimant from pursuing a private right of action against a contractor or subcontractor for unpaid prevailing wages. The remedy provided by this section is not exclusive and is concurrent with any other remedy provided by law.

(2) To the extent that a contractor or subcontractor has not paid the prevailing rate of wage under a determination issued as provided in subsection (1) of this section, the director shall notify the agency awarding the public works contract of the amount of the violation found, and the awarding agency shall withhold, or in the case of a bond, the director shall proceed against the bond in accordance with the applicable statute to recover, such amount from the following sources in the following order of priority until the total of such amount is withheld:

(a) The retainage or bond in lieu of retainage as provided in RCW 60.28.011;

(b) If the claimant was employed by the contractor or subcontractor on the public works project, the bond filed by the contractor or subcontractor with the department of labor and industries as provided in RCW 18.27.040, 18.106.410, and 19.28.041;

(c) A surety bond, or at the contractor's or subcontractor's option an escrow account, running to the director in the amount of the violation found; and

(d) That portion of the progress payments which is properly allocable to the contractor or subcontractor who is found to be in violation of this chapter. Under no circumstances shall any portion of the progress payments be withheld that are properly allocable to a contractor, subcontractor, or supplier, that is not found to be in violation of this chapter.

The amount withheld shall be released to the director to distribute in accordance with the director's determination.

(3) A contractor or subcontractor that is found, in accordance with subsection (1) of this section, to have violated the requirement to pay the prevailing rate of wage is subject to a civil penalty of not less than ((~~five thousand dollars~~)) $5,000 or an amount equal to ((~~fifty~~)) 50 percent of the total prevailing wage violation found on the contract, whichever is greater, interest on all wages owed at one percent per month, and is not permitted to bid, or have a bid considered, on any public works contract until such civil penalty has been paid in full to the director. If a contractor or subcontractor is found to have participated in a violation of the requirement to pay the prevailing rate of wage for a second time within a five-year period, the contractor or subcontractor is subject to the sanctions prescribed in this subsection and as an additional sanction is not allowed to bid on any public works contract for two years. Civil penalties shall be deposited in the public works administration account. If a previous or subsequent violation of a requirement to pay a prevailing rate of wage under federal or other state law is found against the contractor or subcontractor within five years from a violation under this section, the contractor or subcontractor shall not be allowed to bid on any public works contract for two years. The two-year period runs from the date of notice by the director of the determination of noncompliance. When an appeal is taken from the director's determination, the two-year period commences from the date the notice of violation becomes final. A contractor or subcontractor is not barred from bidding on any public works contract if the contractor or subcontractor relied upon written information from the department to pay a prevailing rate of wage that is later determined to be in violation of this chapter. The civil penalty and sanctions under this subsection do not apply to a violation determined by the director to be an inadvertent filing or reporting error. The burden of proving, by a preponderance of the evidence, that an error is inadvertent rests with the contractor or subcontractor charged with the error. To the extent that a contractor or subcontractor has not paid the prevailing wage rate under a determination issued as provided in subsection (1) of this section, the unpaid wages constitute a lien against the bonds and retainage as provided herein and in RCW 18.27.040, 18.106.410, 19.28.041, 39.08.010, and 60.28.011.

(4) The director may waive or reduce a penalty or additional sanction under this section including, but not limited to, when the director determines the contractor or subcontractor paid all wages and interest or there was an inadvertent filing or reporting error. The director may not waive or reduce interest. The department of labor and industries shall submit a report of the waivers made under this section, including a justification for any waiver made, upon request of an interested party.

(5) If, after the department of labor and industries initiates an investigation and before a notice of violation of unpaid wages, the contractor or subcontractor pays the unpaid wages identified in the investigation, interest on all wages owed

at one percent per month, and penalties in the amount of ((~~one thousand dollars~~)) $1,000 or ((~~twenty~~)) 20 percent of the total prevailing wage violation determined by the department of labor and industries, whichever is greater, then the violation is considered resolved without further penalty under subsection (3) of this section.

(6) A contractor or subcontractor may only utilize the process outlined in subsection (5) of this section if the department of labor and industries has not issued a notice of violation that resulted in final judgment under this section against that contractor or subcontractor in the last five-year period. If a contractor or subcontractor utilizes the process outlined in subsection (5) of this section for a second time within a five-year period, the contractor or subcontractor is subject to the sanctions prescribed in subsection (3) of this section and may not be allowed to bid on any public works contract for two years.

Sec. 6. RCW 39.12.100 and 2009 c 63 s 1 are each amended to read as follows:

For the purposes of this chapter, an individual employed on a public works project is not considered to be a laborer, worker, or mechanic when:

(1) The individual has been and is free from control or direction over the performance of the service, both under the contract of service and in fact;

(2) The service is either outside the usual course of business for the contractor or contractors for whom the individual performs services, or the service is performed outside all of the places of business of the enterprise for which the individual performs services, or the individual is responsible, both under the contract and in fact, for the costs of the principal place of business from which the service is performed;

(3) The individual is customarily engaged in an independently established trade, occupation, profession, or business, of the same nature as that involved in the contract of service, or the individual has a principal place of business for the business the individual is conducting that is eligible for a business deduction for federal income tax purposes other than that furnished by the employer for which the business has contracted to furnish services;

(4) On the effective date of the contract of service, the individual is responsible for filing at the next applicable filing period, both under the contract of service and in fact, a schedule of expenses with the internal revenue service for the type of business the individual is conducting;

(5) On the effective date of the contract of service, or within a reasonable period after the effective date of the contract of service, the individual has an active and valid certificate of registration with the department of revenue, and an active and valid account with any other state agencies as required by the particular case, for the business the individual is conducting for the payment of all state taxes normally paid by employers and businesses and has registered for and received a unified business identifier number from the state of Washington;

(6) On the effective date of the contract of service, the individual is maintaining a separate set of books or records that reflect all items of income and expenses of the business which the individual is conducting; and

(7) On the effective date of the contract of service, if the nature of the work performed requires registration under chapter 18.27 RCW or licensure under chapter 18.106, 19.28, or 70.87 RCW, the individual has ((~~a valid contractor~~

~~registration pursuant to~~)) the contractor registration and contractor licenses required by the laws of this state including chapters 18.27 ((~~RCW or an electrical contractor license pursuant to chapter~~)), 18.106, 19.28, and 70.87 RCW.

Sec. 7. RCW 51.08.070 and 2022 c 281 s 9 are each amended to read as follows:

(1) "Employer" means any person, body of persons, corporate or otherwise, and the legal representatives of a deceased employer, all while engaged in this state in any work covered by the provisions of this title, by way of trade or business, or who contracts with one or more workers, the essence of which is the personal labor of such worker or workers. Or as an exception to the definition of employer, persons or entities are not employers when they contract or agree to remunerate the services performed by an individual who meets the tests set forth in RCW 51.08.195 (1) through (6) or the separate tests set forth in RCW 51.08.181 for work performed that requires registration under chapter 18.27 RCW or licensing under chapter 18.106 or 19.28 RCW.

(2) Notwithstanding subsection (1) of this section, and for purposes of this title only, a transportation network company, as defined in RCW 49.46.300, shall have the same rights and obligations of an "employer" under this title with respect to a driver, as defined in RCW 49.46.300, only while the driver is engaged in passenger platform time and dispatch platform time.

Sec. 8. RCW 51.08.180 and 2022 c 281 s 10 are each amended to read as follows:

(1) "Worker" means every person in this state who is engaged in the employment of an employer under this title, whether by way of manual labor or otherwise in the course of his or her employment; also every person in this state who is engaged in the employment of or who is working under an independent contract, the essence of which is his or her personal labor for an employer under this title, whether by way of manual labor or otherwise, in the course of his or her employment, or as an exception to the definition of worker, a person is not a worker if he or she meets the tests set forth in ((~~subsections (1) through (6) of~~)) RCW 51.08.195 (1) through (6) or the separate tests set forth in RCW 51.08.181 for work performed that requires registration under chapter 18.27 RCW or licensing under chapter 18.106 or 19.28 RCW: PROVIDED, That a person is not a worker for the purpose of this title, with respect to his or her activities attendant to operating a truck which he or she owns, and which is leased to a common or contract carrier.

(2) Notwithstanding subsection (1) of this section, and for purposes of this title only, a driver, as defined in RCW 49.46.300, shall have the same rights and obligations of a "worker" under this title with respect to a transportation network company, as defined in RCW 49.46.300, only while the driver is engaged in passenger platform time and dispatch platform time.

Sec. 9. RCW 51.08.181 and 2008 c 102 s 5 are each amended to read as follows:

For the purposes of this title, any individual performing services that require registration under chapter 18.27 RCW or licensing under chapter 18.106 or 19.28 RCW for remuneration under an independent contract is not a worker when:

(1) The individual has been, and will continue to be, free from control or direction over the performance of the service, both under the contract of service and in fact;

(2) The service is either outside the usual course of business for which the service is performed, or the service is performed outside all of the places of business of the enterprise for which the service is performed, or the individual is responsible, both under the contract and in fact, for the costs of the principal place of business from which the service is performed;

(3) The individual is customarily engaged in an independently established trade, occupation, profession, or business, of the same nature as that involved in the contract of service, or the individual has a principal place of business for the business the individual is conducting that is eligible for a business deduction for federal income tax purposes other than that furnished by the employer for which the business has contracted to furnish services;

(4) On the effective date of the contract of service, the individual is responsible for filing at the next applicable filing period, both under the contract of service and in fact, a schedule of expenses with the internal revenue service for the type of business the individual is conducting;

(5) On the effective date of the contract of service, or within a reasonable period after the effective date of the contract, the individual has an active and valid certificate of registration with the department of revenue, and an active and valid account with any other state agencies as required by the particular case, for the business the individual is conducting for the payment of all state taxes normally paid by employers and businesses and has registered for and received a unified business identifier number from the state of Washington;

(6) On the effective date of the contract of service, the individual is maintaining a separate set of books or records that reflect all items of income and expenses of the business which the individual is conducting; and

(7) On the effective date of the contract of service, the individual has a valid contractor registration pursuant to chapter 18.27 RCW, a plumbing contractor license pursuant to chapter 18.106 RCW, or an electrical contractor license pursuant to chapter 19.28 RCW.

Sec. 10. RCW 51.12.070 and 2014 c 193 s 1 are each amended to read as follows:

The provisions of this title apply to all work done by contract; the person, firm, or corporation who lets a contract for such work is responsible primarily and directly for all premiums upon the work, except as provided in subsection (2) of this section. The contractor and any subcontractor are subject to the provisions of this title and the person, firm, or corporation letting the contract is entitled to collect from the contractor the full amount payable in premiums and the contractor in turn is entitled to collect from the subcontractor his or her proportionate amount of the payment.

(1) For the purposes of this section, a contractor registered under chapter 18.27 RCW or licensed under chapter 18.106 or 19.28 RCW is not responsible for any premiums upon the work of any subcontractor if:

(a) The subcontractor is currently engaging in a business which is registered under chapter 18.27 RCW or licensed under chapter 18.106 or 19.28 RCW;

(b) The subcontractor has a principal place of business which would be eligible for a business deduction for internal revenue service tax purposes other

than that furnished by the contractor for which the business has contracted to furnish services;

(c) The subcontractor maintains a separate set of books or records that reflect all items of income and expenses of the business;

(d) The subcontractor has contracted to perform:

(i) The work of a contractor as defined in RCW 18.27.010; ((~~or~~))

(ii) Plumbing work as described in chapter 18.106 RCW; or

(iii) The work of installing wires or equipment to convey electric current or installing apparatus to be operated by such current as it pertains to the electrical industry as described in chapter 19.28 RCW; and

(e) The subcontractor has an industrial insurance account in good standing with the department or is a self-insurer. For the purposes of this subsection (1)(e), a contractor may consider a subcontractor's account to be in good standing if, within a year prior to letting the contract or master service agreement, and at least once a year thereafter, the contractor has verified with the department that the account is in good standing and the contractor has not received written notice from the department that the subcontractor's account status has changed. Acceptable documentation of verification includes a department document which includes an issued date or a dated printout of information from the department's internet website showing a subcontractor's good standing. The department shall develop an approach to provide contractors with verification of the date of inquiries validating that the subcontractor's account is in good standing.

It is unlawful for any county, city, or town to issue a construction building permit to any person who has not submitted to the department an estimate of payroll and paid premium thereon as provided by chapter 51.16 RCW of this title or proof of qualification as a self-insurer.

(2) Nonemergency transportation brokers that operate as not-for-profit businesses are not liable for any premiums of a subcontractor if the provisions of subsection (1)(c) and (e) of this section are met throughout the term of the contract. For purposes of this section, nonemergency transportation brokers are those organizations or entities that contract with the state health care authority, or its successor, to arrange nonemergency transportation for qualified clients.

Sec. 11. RCW 51.12.120 and 2008 c 88 s 1 are each amended to read as follows:

(1) If a worker, while working outside the territorial limits of this state, suffers an injury on account of which he or she, or his or her beneficiaries, would have been entitled to compensation under this title had the injury occurred within this state, the worker, or his or her beneficiaries, shall be entitled to compensation under this title if at the time of the injury:

(a) His or her employment is principally localized in this state; or

(b) He or she is working under a contract of hire made in this state for employment not principally localized in any state; or

(c) He or she is working under a contract of hire made in this state for employment principally localized in another state whose workers' compensation law is not applicable to his or her employer; or

(d) He or she is working under a contract of hire made in this state for employment outside the United States and Canada.

(2) The payment or award of compensation or other recoveries, including settlement proceeds, under the workers' compensation law of another state, territory, province, or foreign nation to a worker or his or her beneficiaries otherwise entitled on account of such injury to compensation under this title shall not be a bar to a claim for compensation under this title if that claim under this title is timely filed. If compensation is paid or awarded under this title, the total amount of compensation or other recoveries, including settlement proceeds, paid or awarded the worker or beneficiary under such other workers' compensation law shall be credited against the compensation due the worker or beneficiary under this title.

(3)(a) An employer not domiciled in this state who is employing workers in this state in work for which the employer must be registered under chapter 18.27 RCW ((~~or~~)), licensed under chapter 18.106 RCW, licensed under chapter 19.28 RCW, or prequalified under RCW 47.28.070, must secure the payment of compensation under this title by:

(i) Insuring the employer's workers' compensation obligation under this title with the department;

(ii) Being qualified as a self-insurer under this title; or

(iii) For employers domiciled in a state or province of Canada subject to an agreement entered into under subsection (7) of this section, as permitted by the agreement, filing with the department a certificate of coverage issued by the agency that administers the workers' compensation law in the employer's state or province of domicile certifying that the employer has secured the payment of compensation under the other state's or province's workers' compensation law.

(b) The department shall adopt rules to implement this subsection.

(4) If a worker or beneficiary is entitled to compensation under this title by reason of an injury sustained in this state while in the employ of an employer who is domiciled in another state or province of Canada and the employer:

(a) Is not subject to subsection (3) of this section and has neither opened an account with the department nor qualified as a self-insurer under this title, the employer or his or her insurance carrier shall file with the director a certificate issued by the agency that administers the workers' compensation law in the state of the employer's domicile, certifying that the employer has secured the payment of compensation under the workers' compensation law of the other state and that with respect to the injury the worker or beneficiary is entitled to the benefits provided under the other state's law.

(b) Has filed a certificate under subsection (3)(a)(iii) of this section or (a) of this subsection (4):

(i) The filing of the certificate constitutes appointment by the employer or his or her insurance carrier of the director as its agent for acceptance of the service of process in any proceeding brought by any claimant to enforce rights under this title;

(ii) The director shall send to such employer or his or her insurance carrier, by registered or certified mail to the address shown on such certificate, a true copy of any notice of claim or other process served on the director by the claimant in any proceeding brought to enforce rights under this title;

(iii) If the employer is a self-insurer under the workers' compensation law of the other state or province of Canada, the employer shall, upon submission of evidence or security, satisfactory to the director, of his or her ability to meet his

or her liability to the claimant under this title, be deemed to be a qualified self-insurer under this title; and

(iv) If the employer's liability under the workers' compensation law of the other state or province of Canada is insured:

(A) The employer's carrier, as to such claimant only, shall be deemed to be subject to this title. However, unless the insurer's contract with the employer requires the insurer to pay an amount equivalent to the compensation benefits provided by this title, the insurer's liability for compensation shall not exceed the insurer's liability under the workers' compensation law of the other state or province; and

(B) If the total amount for which the employer's insurer is liable under (b)(iv)(A) of this subsection is less than the total of the compensation to which the claimant is entitled under this title, the director may require the employer to file security satisfactory to the director to secure the payment of compensation under this title.

(c) If subject to subsection (3) of this section, has not complied with subsection (3) of this section or, if not subject to subsection (3) of this section, has neither qualified as a self-insurer nor secured insurance coverage under the workers' compensation law of another state or province of Canada, the claimant shall be paid compensation by the department and the employer shall have the same rights and obligations, and is subject to the same penalties, as other employers subject to this title.

(5) As used in this section:

(a) A person's employment is principally localized in this or another state when: (i) His or her employer has a place of business in this or the other state and he or she regularly works at or from the place of business; or (ii) if (a)(i) of this subsection is not applicable, he or she is domiciled in and spends a substantial part of his or her working time in the service of his or her employer in this or the other state;

(b) "Workers' compensation law" includes "occupational disease law" for the purposes of this section.

(6) A worker whose duties require him or her to travel regularly in the service of his or her employer in this and one or more other states may agree in writing with his or her employer that his or her employment is principally localized in this or another state, and, unless the other state refuses jurisdiction, the agreement shall govern as to any injury occurring after the effective date of the agreement.

(7) The director is authorized to enter into agreements with the appropriate agencies of other states and provinces of Canada that administer their workers' compensation law with respect to conflicts of jurisdiction and the assumption of jurisdiction in cases where the contract of employment arises in one state or province and the injury occurs in another. If the other state's or province's law requires Washington employers to secure the payment of compensation under the other state's or province's workers' compensation laws for work performed in that state or province, then employers domiciled in that state or province must purchase compensation covering their workers engaged in that work in this state under this state's industrial insurance law. When an agreement under this subsection has been executed and adopted as a rule of the department under

chapter 34.05 RCW, it binds all employers and workers subject to this title and the jurisdiction of this title is governed by this rule.

(8) Washington employers who are not self-insured under chapter 51.14 RCW shall obtain workers' compensation coverage from the state fund for temporary and incidental work performed on jobs or at jobsites in another state by their Washington workers. The department is authorized to adopt rules governing premium liability and reporting requirements for hours of work in excess of temporary and incidental as defined in this chapter.

(9) "Temporary and incidental" means work performed by Washington employers on jobs or at jobsites in another state for ((~~thirty~~)) 30 or fewer consecutive or nonconsecutive full or partial days within a calendar year. Temporary and incidental days are considered on a per state basis.

(10) By December 1, 2011, the department shall report to the workers' compensation advisory committee on the effect of this section on the revenue and costs to the state fund.

Sec. 12. RCW 51.16.070 and 2008 c 120 s 5 are each amended to read as follows:

(1)(a) Every employer shall keep at his or her place of business a record of his or her employment from which the information needed by the department may be obtained and such record shall at all times be open to the inspection of the director, supervisor of industrial insurance, or the traveling auditors, agents, or assistants of the department, as provided in RCW 51.48.040.

(b) An employer who contracts with another person or entity for work subject to chapter 18.27, 18.106, or 19.28 RCW shall obtain and preserve a record of the unified business identifier account number for and the compensation paid to the person or entity performing the work. Failure to obtain or maintain the record is subject to RCW 39.06.010 and to a penalty under RCW 51.48.030.

(2) Information obtained from employing unit records under the provisions of this title shall be deemed confidential and shall not be open to public inspection (other than to public employees in the performance of their official duties), but any interested party shall be supplied with information from such records to the extent necessary for the proper presentation of the case in question: PROVIDED, That any employing unit may authorize inspection of its records by written consent.

Sec. 13. RCW 51.48.022 and 2009 c 196 s 1 are each amended to read as follows:

(1) In addition to the penalties provided by this chapter, an employer performing services that require registration under chapter 18.27 RCW or licensing under chapter 18.106 or 19.28 RCW who violates RCW 51.14.010 may be subject to a stop work order issued under this section.

(2) If the director determines after an investigation that an employer is in violation of RCW 51.14.010, the director may issue a stop work order against the employer requiring the cessation of business operations of the employer. Service of the order must be in accordance with subsection (3) of this section.

(3) When a stop work order is served on a worksite by posting a copy of the stop work order in a conspicuous location at the worksite, it is effective as to the employer's operations on that worksite. When a stop work order is served on the

employer, the order is effective to all employer worksites for which the employer is not in compliance. Business operations of the employer must cease immediately upon service consistent with the stop work order. The order remains in effect until the director issues an order releasing the stop work order upon finding that the employer has come into compliance and has paid any premiums, penalties, and interest under this title or issues an order of conditional release pursuant to subsection (6) of this section.

(4) An employer who violates a stop work order is subject to a ((~~one thousand dollar~~)) $1,000 penalty for each day not in compliance.

(5) An employer against whom a stop work order has been issued may request reconsideration from the department or may appeal to the board of industrial insurance appeals. The request must be made in writing to the department or the board within ((~~ten~~)) 10 days of receiving the stop work order at the worksite or in person. If the department conducts a reconsideration, it must be concluded within ((~~ten~~)) 10 days of receiving the request for reconsideration by the employer. The stop work order remains in effect during the period of reconsideration or appeal, unless the employer furnishes to the department a cash deposit or bond in the amount of ((~~five thousand dollars~~)) $5,000 or ((~~one thousand dollars~~)) $1,000 per covered worker identified, whichever is greater. At time of a final order upholding a stop work order, the bond or cash deposit will be seized and applied to the premium, penalty, and interest balance of that employer. In an appeal before the board, the appellant has the burden of proceeding with the evidence to establish a prima facie case for the relief sought in such appeal. RCW 51.52.080 through 51.52.106 govern appeals under this section. Further appeals taken from a final decision of the board under this section are governed by the provisions relating to judicial review of administrative decisions contained in RCW 34.05.510 through 34.05.598, and the department has the same right of review from the board's decisions as do employers.

(6) The director may issue an order of conditional release from the stop work order if the employer has complied with the coverage requirements of this title and agreed to pay premiums, penalties, and interest through a payment schedule. If the terms of the schedule are not met, the stop work order may be reinstated and the unpaid balance will become due.

(7) Stop work orders and penalties assessed under this chapter remain in effect against any successor corporation or business entity that has one or more of the same principals or officers as the employer against whom the stop work order was issued and which is engaged in the same or equivalent trade or activity.

(8) The department may adopt rules to carry out this section.

Passed by the Senate February 22, 2023.

Passed by the House April 5, 2023.

Approved by the Governor April 14, 2023.

Filed in Office of Secretary of State April 14, 2023.

CHAPTER 89

[Senate Bill 5113]

DENTAL SCHOOL FACULTY—ACADEMIC LICENSES

AN ACT Relating to faculty in dental schools; and amending RCW 18.32.195.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 18.32.195 and 2009 c 327 s 1 are each amended to read as follows:

The commission may, without examination, issue a license to persons who possess the qualifications set forth in this section.

(1) The commission may, upon written request of the dean of the school of dentistry of ((~~the University of Washington~~)) any institution of higher education in Washington state accredited by the commission on dental accreditation, issue a license to practice dentistry in this state to persons who have been licensed or otherwise authorized to practice dentistry in another state or country and who have been accepted for employment by the school of dentistry as faculty members. For purposes of this subsection, this means teaching members of the faculty of ((~~the~~)) any school of dentistry ((~~of the University of Washington~~)) in any institution of higher education in Washington state accredited by the commission on dental accreditation. Such license shall permit the holder thereof to practice dentistry within the confines of the university facilities for a period of one year while he or she is so employed as a faculty member by the school of dentistry ((~~of the University of Washington~~)). It shall terminate whenever the holder ceases to be a faculty member. Such license shall permit the holder thereof to practice dentistry only in connection with his or her duties in employment with the school of dentistry ((~~of the University of Washington~~)). This limitation shall be stated on the license.

(2) The commission may, upon written request of the dean of the school of dentistry of ((~~the University of Washington~~)) any institution of higher education in Washington state accredited by the commission on dental accreditation or the director of a postdoctoral dental residency program approved by the commission, issue a limited license to practice dentistry in this state to university postdoctoral students or residents in dental education or to postdoctoral residents in a dental residency program approved by the commission. Prior to July 1, 2010, a dental residency program must be accredited by the commission on dental accreditation, or be in the process of obtaining such accreditation, in order to be approved by the commission. On or after July 1, 2010, the dental residency program must be accredited by the commission on dental accreditation in order to be approved by the commission. The license shall permit the resident dentist to provide dental care only in connection with his or her duties as a university postdoctoral dental student or resident or a postdoctoral resident in a program approved by the commission.

(3) The commission may condition the granting of a license under this section with terms the commission deems appropriate. All persons licensed under this section shall be subject to the jurisdiction of the commission to the same extent as other members of the dental profession, in accordance with this chapter, and in addition the licensee may be disciplined by the commission after a hearing has been held in accordance with the provisions set forth in this

chapter, and determination by the commission that such licensee has violated any of the restrictions set forth in this section.

(4) Persons applying for licensure pursuant to this section shall pay the application fee determined by the secretary and, in the event the license applied for is issued, a license fee at the rate provided for licenses generally. After review by the commission, licenses issued under this section may be renewed annually if the licensee continues to be employed as a faculty member of the school of dentistry of ((~~the University of Washington~~)) any institution of higher education in Washington state accredited by the commission on dental accreditation, or is a university postdoctoral student or resident in dental education, or a postdoctoral resident in a dental residency program approved by the commission, and otherwise meets the requirements of the provisions and conditions deemed appropriate by the commission. Any person who obtains a license pursuant to this section may, without an additional application fee, apply for licensure under this chapter, in which case the applicant shall be subject to examination and the other requirements of this chapter.

Passed by the Senate February 22, 2023.

Passed by the House April 5, 2023.

Approved by the Governor April 14, 2023.

Filed in Office of Secretary of State April 14, 2023.

CHAPTER 90

[Senate Bill 5163]

MEDICAID FRAUD FALSE CLAIMS ACT—SUNSET REPEAL

AN ACT Relating to the medicaid fraud false claims act; repealing RCW 43.131.419 and 43.131.420; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The following acts or parts of acts are each repealed:

(1) RCW 43.131.419 (Medicaid fraud false claims act—Termination) and 2016 c 147 s 1 & 2012 c 241 s 216; and

(2) RCW 43.131.420 (Medicaid fraud false claims act—Repeal) and 2016 c 147 s 2 & 2012 c 241 s 217.

NEW SECTION. **Sec. 2.** 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.

Passed by the Senate February 27, 2023.

Passed by the House April 5, 2023.

Approved by the Governor April 14, 2023.

Filed in Office of Secretary of State April 14, 2023.

CHAPTER 91

[Substitute Senate Bill 5170]

LEGISLATIVE ASSOCIATIONS—DONATION SOLICITATION

AN ACT Relating to funding and expenditures for legislative organizations by legislators who serve as elected leaders of those organizations; amending RCW 42.56.160; reenacting and amending RCW 42.52.150; and adding a new section to chapter 42.52 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 42.52 RCW to read as follows:

(1) When soliciting gifts, grants, or donations to a regional or national legislative association for an official conference held outside the state of Washington, legislators who serve as elected leaders of the association and designated legislative employees are presumed not to be in violation of the solicitation and receipt of gift provisions of this chapter.

(2) For purposes of this section, any regional or national legislative association is any organization which:

(a) Exists for the purpose of supporting legislators in the execution of their official duties;

(b) Includes among its membership the Washington state legislature; and

(c) Is supported in part by the payment of annual dues by the Washington state legislature.

Sec. 2. RCW 42.52.150 and 2015 3rd sp.s. c 20 s 7 and 2015 c 45 s 2 are each reenacted and amended to read as follows:

(1) No state officer or state employee may accept gifts, other than those specified in subsections (2) and (5) of this section, with an aggregate value in excess of fifty dollars from a single source in a calendar year or a single gift from multiple sources with a value in excess of fifty dollars. For purposes of this section, "single source" means any person, as defined in RCW 42.52.010, whether acting directly or through any agent or other intermediary, and "single gift" includes any event, item, or group of items used in conjunction with each other or any trip including transportation, lodging, and attendant costs, not excluded from the definition of gift under RCW 42.52.010. The value of gifts given to an officer's or employee's family member or guest shall be attributed to the official or employee for the purpose of determining whether the limit has been exceeded, unless an independent business, family, or social relationship exists between the donor and the family member or guest.

(2) Except as provided in subsection (4) of this section, the following items are presumed not to influence under RCW 42.52.140, and may be accepted without regard to the limit established by subsection (1) of this section:

(a) Unsolicited flowers, plants, and floral arrangements;

(b) Unsolicited advertising or promotional items of nominal value, such as pens and note pads;

(c) Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;

(d) Unsolicited items received by a state officer or state employee for the purpose of evaluation or review, if the officer or employee has no personal beneficial interest in the eventual use or acquisition of the item by the officer's or employee's agency;

(e) Informational material, publications, or subscriptions related to the recipient's performance of official duties;

(f) Food and beverages consumed at hosted receptions where attendance is related to the state officer's or state employee's official duties;

(g) Gifts, grants, conveyances, bequests, and devises of real or personal property, or both, in trust or otherwise accepted and solicited for deposit in the legislative international trade account created in RCW 43.15.050;

(h) Gifts, grants, conveyances, bequests, and devises of real or personal property, or both, in trust or otherwise accepted and solicited for the purpose of promoting the expansion of tourism as provided for in RCW 43.330.090;

(i) Gifts, grants, conveyances, bequests, and devises of real or personal property, or both, solicited on behalf of a national or regional legislative association as defined in section 1(2) of this act, the 2006 official conference of the national lieutenant governors' association, the annual conference of the national association of state treasurers((~~,~~)), or a host committee, for the purpose of hosting an official conference under the circumstances specified in RCW 42.52.820, section 2, chapter 5, Laws of 2006, ((~~or~~)) RCW 42.52.821, or section 1 of this act. Anything solicited or accepted may only be received by the national association or host committee and may not be commingled with any funds or accounts that are the property of any person;

(j) Admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental, or community organization;

(k) Unsolicited gifts from dignitaries from another state or a foreign country that are intended to be personal in nature; and

(l) Gifts, grants, donations, sponsorships, or contributions from any agency or federal or local government agency or program or private source for the purposes of chapter 28B.156 RCW.

(3) The presumption in subsection (2) of this section is rebuttable and may be overcome based on the circumstances surrounding the giving and acceptance of the item.

(4) Notwithstanding subsections (2) and (5) of this section, a state officer or state employee of a regulatory agency or of an agency that seeks to acquire goods or services who participates in those regulatory or contractual matters may receive, accept, take, or seek, directly or indirectly, only the following items from a person regulated by the agency or from a person who seeks to provide goods or services to the agency:

(a) Unsolicited advertising or promotional items of nominal value, such as pens and note pads;

(b) Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;

(c) Unsolicited items received by a state officer or state employee for the purpose of evaluation or review, if the officer or employee has no personal beneficial interest in the eventual use or acquisition of the item by the officer's or employee's agency;

(d) Informational material, publications, or subscriptions related to the recipient's performance of official duties;

(e) Food and beverages consumed at hosted receptions where attendance is related to the state officer's or state employee's official duties;

(f) Admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental, or community organization; and

(g) Those items excluded from the definition of gift in RCW 42.52.010 except:

(i) Payments by a governmental or nongovernmental entity of reasonable expenses incurred in connection with a speech, presentation, appearance, or trade mission made in an official capacity;

(ii) Payments for seminars and educational programs sponsored by a bona fide governmental or nonprofit professional, educational, trade, or charitable association or institution; and

(iii) Flowers, plants, and floral arrangements.

(5) A state officer or state employee may accept gifts in the form of food and beverage on infrequent occasions in the ordinary course of meals where attendance by the officer or employee is related to the performance of official duties. Gifts in the form of food and beverage that exceed fifty dollars on a single occasion shall be reported as provided in chapter 42.17A RCW.

Sec. 3. RCW 42.52.160 and 2022 c 37 s 2 are each amended to read as follows:

(1) No state officer or state employee may employ or use any person, money, or property under the officer's or employee's official control or direction, or in his or her official custody, for the private benefit or gain of the officer, employee, or another.

(2) This section does not prohibit the use of public resources to benefit others as part of a state officer's or state employee's official duties. It is not a violation of this section for a legislator or an appropriate legislative staff designee to engage in activities listed under RCW 42.52.070(2) or section 1 of this act.

(3) This section does not prohibit de minimis use of state facilities to provide employees with information about (a) medical, surgical, and hospital care; (b) life insurance or accident and health disability insurance; or (c) individual retirement accounts, by any person, firm, or corporation administering such program as part of authorized payroll deductions pursuant to RCW 41.04.020.

(4) The appropriate ethics boards may adopt rules providing exceptions to this section for occasional use of the state officer or state employee, of de minimis cost and value, if the activity does not result in interference with the proper performance of public duties.

Passed by the Senate February 22, 2023.
Passed by the House April 5, 2023.
Approved by the Governor April 14, 2023.
Filed in Office of Secretary of State April 14, 2023.

CHAPTER 92

[Substitute Senate Bill 5176]

EMPLOYEE-OWNED COOPERATIVE OFFICERS—UNEMPLOYMENT INSURANCE

AN ACT Relating to unemployment insurance benefits for officers of employee-owned cooperatives; amending RCW 50.04.310; creating a new section; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 50.04.310 and 2013 c 66 s 1 are each amended to read as follows:

(1) An individual:

(a) Is "unemployed" in any week during which the individual performs no services and with respect to which no remuneration is payable to the individual, or in any week of less than full time work, if the remuneration payable to the individual with respect to such week is less than one and one-third times the individual's weekly benefit amount plus five dollars. The commissioner shall prescribe regulations applicable to unemployed individuals making such distinctions in the procedures as to such types of unemployment as the commissioner deems necessary.

(b) Is not "unemployed" in any week which falls totally within a period during which the individual, pursuant to a collective bargaining agreement or individual employment contract, is employed full time in accordance with a definition of full time contained in the agreement or contract, and for which compensation for full time work is payable. This subsection may not be applied retroactively to an individual who had no guarantee of work at the start of such period and subsequently is provided additional work by the employer.

(2)(a) An officer of a corporation who owns ten percent or more of the outstanding stock of the corporation, or a corporate officer who is a family member of an officer who owns ten percent or more of the outstanding stock of the corporation, whose claim for benefits is based on any wages with that corporation:

(i) Is not "unemployed" in any week during the individual's term of office or ownership in the corporation, even if wages are not being paid, unless the corporate officer's covered base year wages with that corporation are less than twenty-five percent of his or her total covered base year wages.

(ii) Is "unemployed" in any week upon dissolution of the corporation or if the officer permanently resigns or is permanently removed from their appointment and responsibilities with that corporation in accordance with its articles of incorporation or bylaws or if the corporate officer's covered base year wages with that corporation are less than twenty-five percent of his or her total covered base year wages.

(b) As used in this subsection (2), "family member" means persons who are members of a family by blood or marriage as parents, stepparents, grandparents, spouses, children, brothers, sisters, stepchildren, adopted children, or grandchildren.

(3) Subsection (2)(a) of this section does not apply to officers of an employee cooperative corporation organized under chapter 23.78 RCW, a cooperative association organized under chapter 23.86 RCW, or a limited cooperative association organized under chapter 23.100 RCW. For purposes of subsection (1)(a) of this section, an officer of an employee cooperative corporation organized under chapter 23.78 RCW, a cooperative association organized under chapter 23.86 RCW, or a limited cooperative association organized under chapter 23.100 RCW will not be considered to be performing services by acting only as an officer for the entity.

NEW SECTION. **Sec. 2.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state.

NEW SECTION. **Sec. 3.** This act takes effect January 1, 2024.

Passed by the Senate February 8, 2023.
Passed by the House April 5, 2023.
Approved by the Governor April 14, 2023.
Filed in Office of Secretary of State April 14, 2023.

CHAPTER 93

[Substitute Senate Bill 5229]

COMMUNITY ECONOMIC REVITALIZATION BOARD GRANTS—SITE READINESS COSTS

AN ACT Relating to accelerating rural job growth and promoting economic recovery across Washington through site readiness grants; amending RCW 43.160.060 and 43.160.900; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature finds that while many of Washington's high-wage industries, particularly those clustered around the Puget Sound corridor, have weathered both public health and economic crises well, many rural communities continue to struggle to recover without adequate access to resources. This has negative impacts on rural communities' broader ability to retain and grow family-wage jobs and local businesses, grow their tax base, and provide basic government services.

(2) The legislature further finds that reliable, modern infrastructure is critical for successful economic recovery and development. The underpinning of all commerce is physical infrastructure: Roads, transit, airports, railroads, water and sewer, broadband, and energy. Public investments in infrastructure create construction jobs, set the stage for future private investment, and shape an area's prospects for generations. New or relocating businesses often factor in the degree of certainty in timing of permitting and predevelopment work in selecting a site to locate.

(3) Therefore, the legislature intends to promote permanent job growth, ensure equitable recovery, and provide businesses as much predictability and certainty as possible through supporting site readiness and investments in predevelopment work to help give new or relocating businesses the assurance and confidence they need to choose Washington communities as their next home.

Sec. 2. RCW 43.160.060 and 2014 c 112 s 108 are each amended to read as follows:

(1) The board is authorized to make direct loans to political subdivisions of the state and to federally recognized Indian tribes for the purposes of assisting the political subdivisions and federally recognized Indian tribes in financing the cost of public facilities, including development of land and improvements for public facilities, project-specific environmental, capital facilities, land use, permitting, feasibility, and marketing studies and plans; project design, site planning, and analysis; project debt and revenue impact analysis; as well as the construction, rehabilitation, alteration, expansion, or improvement of the facilities. A grant may also be authorized for purposes designated in this chapter, but only when, and to the extent that, a loan is not reasonably possible, given the limited resources of the political subdivision or the federally recognized Indian tribe and the finding by the board that financial circumstances require grant assistance to enable the project to move forward. However, no more than twenty-five percent of all financial assistance approved by the board in any biennium may consist of grants to political subdivisions and federally recognized Indian tribes.

(2) Application for funds must be made in the form and manner as the board may prescribe. In making grants or loans the board must conform to the following requirements:

(a) The board may not provide financial assistance:

(i) For a project the primary purpose of which is to facilitate or promote a retail shopping development or expansion.

(ii) For any project that evidence exists would result in a development or expansion that would displace existing jobs in any other community in the state.

(iii) For a project the primary purpose of which is to facilitate or promote gambling.

(iv) For a project located outside the jurisdiction of the applicant political subdivision or federally recognized Indian tribe.

(b) The board may only provide financial assistance:

(i) For a project demonstrating convincing evidence that a specific private development or expansion is ready to occur and will occur only if the public facility improvement is made that:

(A) Results in the creation of significant private sector jobs or significant private sector capital investment as determined by the board; and

(B) Will improve the opportunities for the successful maintenance, establishment, or expansion of industrial or commercial plants or will otherwise assist in the creation or retention of long-term economic opportunities;

(ii) For a project that cannot meet the requirement of (b)(i) of this subsection but is a project that:

(A) Results in the creation of significant private sector jobs or significant private sector capital investment as determined by the board;

(B) Is part of a local economic development plan consistent with applicable state planning requirements;

(C) Can demonstrate project feasibility using standard economic principles; and

(D) Is located in a rural community as defined by the board, or a rural county;

(iii) For site-specific plans, studies, and analyses that address environmental impacts, capital facilities, land use, permitting, feasibility, marketing, project

engineering, design, site planning, costs of achieving site readiness, and project debt and revenue impacts, as grants ((~~not to exceed fifty thousand dollars~~)). After December 31, 2028, such grants may not exceed $200,000. For purposes of this subsection (2)(b)(iii), "achieving site readiness" must be defined by the board.

(c) The board must develop guidelines for local participation and allowable match and activities.

(d) An application must demonstrate local match and local participation, in accordance with guidelines developed by the board.

(e) An application must be approved by the political subdivision and supported by the local associate development organization or local workforce development council or approved by the governing body of the federally recognized Indian tribe.

(f) The board may allow de minimis general system improvements to be funded if they are critically linked to the viability of the project.

(g) An application must demonstrate convincing evidence that the median hourly wage of the private sector jobs created after the project is completed will exceed the countywide median hourly wage.

(h) The board must prioritize each proposed project according to:

(i) The relative benefits provided to the community by the jobs the project would create, not just the total number of jobs it would create after the project is completed, but also giving consideration to the unemployment rate in the area in which the jobs would be located;

(ii) The rate of return of the state's investment, including, but not limited to, the leveraging of private sector investment, anticipated job creation and retention, and expected increases in state and local tax revenues associated with the project;

(iii) Whether the proposed project offers a health insurance plan for employees that includes an option for dependents of employees;

(iv) Whether the public facility investment will increase existing capacity necessary to accommodate projected population and employment growth in a manner that supports infill and redevelopment of existing urban or industrial areas that are served by adequate public facilities. Projects should maximize the use of existing infrastructure and provide for adequate funding of necessary transportation improvements;

(v) Whether the applicant's permitting process has been certified as streamlined by the office of regulatory assistance; and

(vi) Whether the applicant has developed and adhered to guidelines regarding its permitting process for those applying for development permits consistent with section 1(2), chapter 231, Laws of 2007.

(i) A responsible official of the political subdivision or the federally recognized Indian tribe must be present during board deliberations and provide information that the board requests.

(3) Before any financial assistance application is approved, the political subdivision or the federally recognized Indian tribe seeking the assistance must demonstrate to the community economic revitalization board that no other timely source of funding is available to it at costs reasonably similar to financing available from the community economic revitalization board.

Sec. 3. RCW 43.160.900 and 2014 c 112 s 109 are each amended to read as follows:

(1) The community economic revitalization board shall conduct biennial outcome-based evaluations of the financial assistance provided under this chapter. The evaluations shall include ((~~information~~)) the following:

(a) Information on the number of applications for community economic revitalization board assistance; ((~~the~~))

(b) The number and types of projects approved; ((~~the~~))

(c) The grant or loan amount awarded each project; ((~~the~~))

(d) The projected number of jobs created or retained by each project; ((~~the~~))

(e) The actual number and cost of jobs created or retained by each project; ((~~the~~))

(f) The wages and health benefits associated with the jobs; ((~~the~~))

(g) The amount of state funds and total capital invested in projects; ((~~the~~))

(h) The number and types of businesses assisted by funded projects; ((~~the~~))

(i) The location of funded projects; ((~~the~~))

(j) The transportation infrastructure available for completed projects; ((~~the~~))

(k) The local match and local participation obtained; ((~~the~~))

(l) The number of delinquent loans; ((~~and the~~))

(m) The number of project terminations; and

(n) Certain information identifying the biennial total number, percentage, and dollar amount of projects' use of: Businesses certified by the office of minority and women's business enterprises under chapter 39.19 RCW and department of veterans affairs under chapter 43.60A RCW, and businesses not yet certified with these organizations but that self-report as meeting the requirements of certification.

(2) The evaluations may also include additional performance measures and recommendations for programmatic changes.

(((~~(2)~~))) (3) The evaluation must be presented to the governor and appropriate committees of the legislature by December 31st of each even-numbered year. ((~~The initial evaluation must be submitted by December 31, 2010.~~))

Passed by the Senate February 27, 2023.
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CHAPTER 94

[Substitute Senate Bill 5304]

LANGUAGE ACCESS PROVIDERS—TESTING

AN ACT Relating to testing individuals who provide language access to state services; amending RCW 74.04.025; creating new sections; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature declares that quality, competent interpretive services for limited English-speaking Washingtonians is a vital public policy priority. The legislature finds that informal or erroneous interpretation can result in significant personal consequences. Therefore, the legislature intends to require that interpreters be able to pass both written and

oral certification exams to ensure quality, competent services for all Washingtonians.

Sec. 2. RCW 74.04.025 and 2018 c 253 s 2 are each amended to read as follows:

(1) The department, the authority, and the office of administrative hearings shall ensure that bilingual services are provided to non-English-speaking applicants and recipients. The services shall be provided to the extent necessary to assure that non-English-speaking persons are not denied, or unable to obtain or maintain, services or benefits because of their inability to speak English.

(2) If the number of non-English-speaking applicants or recipients sharing the same language served by any community service office client contact job classification equals or exceeds fifty percent of the average caseload of a full-time position in such classification, the department shall, through attrition, employ bilingual personnel to serve such applicants or recipients.

(3) Regardless of the applicant or recipient caseload of any community service office, each community service office shall ensure that bilingual services required to supplement the community service office staff are provided through contracts with language access providers, local agencies, or other community resources.

(4) The department shall certify, authorize, and qualify language access providers as needed to maintain an adequate pool of providers such that residents can access state services. The department shall require the successful completion of oral and written tests in accordance with established standards to ensure that all language access providers are fluent in English and a primary non-English language. Testing shall include evaluation of language competence, interpreting performance skills, understanding of the interpreter's role, and knowledge of the department's policies regarding confidentiality, accuracy, impartiality, and neutrality. Except as needed to certify, authorize, or qualify bilingual personnel per subsection (2) of this section, the department will only offer spoken language interpreter testing in the following manner:

(a) To individuals speaking languages for which ten percent or more of the requests for interpreter services in the prior year for department employees and the health care authority on behalf of limited English-speaking applicants and recipients of public assistance that went unfilled through the procurement process in RCW 39.26.300;

(b) To spoken language interpreters who were decertified or deauthorized due to noncompliance with any continuing education requirements; and

(c) To current department certified or authorized spoken language interpreters seeking to gain additional certification or authorization.

(5) The department shall require compliance with RCW 41.56.113(2) through its contracts with third parties.

(6) Initial client contact materials shall inform clients in all primary languages of the availability of interpretation services for non-English-speaking persons. Basic informational pamphlets shall be translated into all primary languages.

(7) To the extent all written communications directed to applicants or recipients are not in the primary language of the applicant or recipient, the department and the office of administrative hearings shall include with the written communication a notice in all primary languages of applicants or

recipients describing the significance of the communication and specifically how the applicants or recipients may receive assistance in understanding, and responding to if necessary, the written communication. The department shall assure that sufficient resources are available to assist applicants and recipients in a timely fashion with understanding, responding to, and complying with the requirements of all such written communications.

(8) Nothing in this section prohibits the department from developing and administering a program to meet the requirements and standards established under this act.

(9) No testing or certification authority may be awarded to a private entity with a financial interest in the direct provision of interpreter services.

(10) As used in this section:

(a) "Language access provider" means any independent contractor who provides spoken language interpreter services for state agencies, injured worker, or crime victim appointments through the department of labor and industries, or medicaid enrollee appointments, or provided these services on or after January 1, 2009, and before June 10, 2010, whether paid by a broker, language access agency, or a state agency. "Language access provider" does not mean a manager or employee of a broker or a language access agency.

(b) "Primary languages" includes but is not limited to Spanish, Vietnamese, Cambodian, Laotian, and Chinese.

NEW SECTION. **Sec. 3.** (1) The department shall convene a language access work group. The purpose of the work group is to study and make recommendations to the legislature regarding interpretive service certification policies and programs for limited and non-English-speaking Washingtonians. The work group shall hold its first meeting on or before August 1, 2023, and shall submit its final report on or before December 1, 2023.

(2) The work group shall make recommendations necessary to support language access and interpretative services that shall include, at a minimum:

(a) Criteria necessary to demonstrate that certified language access providers have the skills necessary to ensure quality and accurate services;

(b) Strategies for increasing access to language access providers in rural communities and for languages of lesser demand;

(c) Strategies for workforce resiliency including adequate workload and compensation;

(d) Standards of ethics and professional responsibility; and

(e) Investments needed to implement the plan for online testing described in this section.

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

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

(c) The remaining members of the work group shall be selected by the department of social and health services and shall include individuals who:

(i) Are geographically diverse and represent people with a variety of language barriers; and

(ii) Represent at least the following groups: Interpreters working in medical settings, interpreter unions; families with language access barriers; community-

based organizations supporting families with language access barriers; leadership of the department of social and health services; professionals with experience delivering interpreter certification services online; and other parties the department of social and health services deems relevant.

(d) Staff support for the work group shall be provided by the department of social and health services.

(4) In addition to the recommendations in this section, the work group shall develop an implementation plan for an online testing system for language access providers. The plan must require candidates to demonstrate written and oral proficiency in both English and another language in accordance with nationally recognized standards and ethics.

(5) This section expires June 30, 2024.

Passed by the Senate March 8, 2023.
Passed by the House April 5, 2023.
Approved by the Governor April 14, 2023.
Filed in Office of Secretary of State April 14, 2023.

CHAPTER 95

[Engrossed Substitute Senate Bill 5320]

JOURNEY LEVEL ELECTRICIAN CERTIFICATION—ELIGIBILITY

AN ACT Relating to journey level electrician certifications of competency; amending RCW 19.28.191 and 19.28.195; providing an effective date; providing an expiration date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 19.28.191 and 2020 c 153 s 26 are each amended to read as follows:

(1) Upon receipt of the application, the department shall review the application and determine whether the applicant is eligible to take an examination for the master journey level electrician, journey level electrician, master specialty electrician, or specialty electrician certificate of competency.

(a) To be eligible to take the examination for a master journey level electrician certificate of competency, the applicant must have possessed a valid journey level electrician certificate of competency for four years.

(b) To be eligible to take the examination for a master specialty electrician certificate of competency, the applicant must have possessed a valid specialty electrician certificate of competency, in the specialty applied for, for two years.

(c) To be eligible to take the examination for a journey level certificate of competency, the applicant must have ((~~successfully completed an~~)):

(i) Successfully completed the work experience and education requirements of an 8,000 hour electrical construction trade apprenticeship program approved under chapter 49.04 RCW ((~~or equivalent apprenticeship program approved by the department for the electrical construction trade in which the applicant worked in the electrical construction trade for a minimum of eight thousand hours~~)). Four thousand of the hours ((~~shall~~)) must be ((~~in~~)) new industrial or commercial electrical ((~~installation~~)) installations under the supervision of a master journey level electrician or journey level electrician and not more than a total of ((~~four thousand~~)) 4,000 hours in all specialties under the supervision of a

master journey level electrician, journey level electrician, master specialty electrician working in that electrician's specialty, or specialty electrician working in that electrician's specialty. Specialty electricians with less than a ((~~four thousand~~)) 4,000 hour work experience requirement cannot credit the time required to obtain that specialty towards qualifying to become a journey level electrician. The holder of a specialty electrician certificate of competency with a ((~~four thousand~~)) 4,000 hour work experience requirement shall be allowed to credit the work experience required to obtain that certificate towards apprenticeship requirements for qualifying to take the examination for a journey level electrician certificate of competency;

(ii) Successfully completed an 8,000 hour electrical construction trade apprenticeship program in another jurisdiction equivalent to an apprenticeship program approved under chapter 49.04 RCW. Four thousand of the hours must be new industrial or commercial electrical installations;

(iii) An out-of-state journey level electrician certificate obtained through examination by a state licensing jurisdiction requiring at least 8,000 hours of supervised experience in the electrical construction trade installing and maintaining electrical wiring and equipment for installations of a type regulated under this chapter. Four thousand of the hours must be new industrial or commercial electrical installations. All experience applied toward qualifying for examination must be experience gained in the state that issued the certificate or military experience not exceeding that allowed under this chapter, or both;

(iv) At least 16,000 hours of out-of-state experience in the electrical construction trade installing and maintaining electrical wiring and equipment for installations of a type regulated under this chapter. Four thousand of the hours must be new industrial or commercial electrical installations; or

(v) Eight thousand hours of experience in the electrical construction trade installing and maintaining electrical wiring and equipment for installations of a type regulated under this chapter while serving in a construction battalion in the armed forces of the United States.

(d) To be eligible to take the examination for a specialty electrician certificate of competency, the applicant must have:

(i) Worked in the residential (as specified in WAC 296-46B-920(2)(a)), pump and irrigation (as specified in WAC 296-46B-920(2)(b)), sign (as specified in WAC 296-46B-920(2)(d)), limited energy (as specified in WAC 296-46B-920(2)(e)), nonresidential maintenance (as specified in WAC 296-46B-920(2)(g)), or other new nonresidential specialties as determined by the department in rule under the supervision of a master journey level electrician, journey level electrician, master specialty electrician working in that electrician's specialty, or specialty electrician working in that electrician's specialty for a minimum of ((~~four thousand~~)) 4,000 hours;

(ii) Worked in the appliance repair specialty as determined by the department in rule, restricted nonresidential maintenance as determined by the department in rule, the equipment repair specialty as determined by the department in rule, the pump and irrigation specialty other than as defined by (d)(i) of this subsection or domestic pump specialty as determined by the department in rule, or a specialty other than the designated specialties in (d)(i) of this subsection for a minimum of the initial ninety days, or longer if set by rule by the department. The restricted nonresidential maintenance specialty is limited

to a maximum of 277 volts and 20 amperes for lighting branch circuits and/or a maximum of 250 volts and 60 amperes for other circuits excluding the replacement or repair of circuit breakers. The department may alter the scope of work for the restricted nonresidential maintenance specialty by rule. The initial period must be spent under one hundred percent supervision of a master journey level electrician, journey level electrician, master specialty electrician working in that electrician's specialty, or specialty electrician working in that electrician's specialty. After this initial period, a person may take the specialty examination. If the person passes the examination, the person may work unsupervised for the balance of the minimum hours required for certification. A person may not be certified as a specialty electrician in the appliance repair specialty or in a specialty other than the designated specialties in (d)(i) of this subsection, however, until the person has worked a minimum of ((~~two thousand~~)) 2,000 hours in that specialty, or longer if set by rule by the department;

(iii) Successfully completed an approved apprenticeship program under chapter 49.04 RCW for the applicant's specialty in the electrical construction trade; or

(iv) In meeting the training requirements for the pump and irrigation or domestic pump specialties, the individual shall be allowed to obtain the experience required by this section at the same time the individual is meeting the experience required by RCW 18.106.040(1)(d). After meeting the training requirements provided in this section, the individual may take the examination and upon passing the examination, meeting additional training requirements as may still be required for those seeking a pump and irrigation, or a domestic pump specialty certificate as defined by rule, and paying the applicable fees, the individual must be issued the appropriate certificate. The department may include an examination for specialty plumbing certificate defined in RCW 18.106.010(14)(c) with the examination required by this section. The department, by rule and in consultation with the electrical board, may establish additional equivalent ways to gain the experience requirements required by this subsection. The department shall establish a single document for those who have received both an electrical specialty certification as defined by this subsection and have also met the certification requirements for the specialty plumber as defined by RCW 18.106.010(14)(c), showing that the individual has received both certifications. No other experience or training requirements may be imposed.

(e) Any applicant for a journey level electrician certificate of competency who has successfully completed a two-year program in the electrical construction trade at public community or technical colleges, or not-for-profit nationally accredited technical or trade schools licensed by the workforce training and education coordinating board under chapter 28C.10 RCW, may substitute up to two years of the technical or trade school program for two years of work experience under a master journey level electrician or journey level electrician required under the apprenticeship program. The applicant shall obtain the additional two years of work experience required in industrial or commercial electrical installation prior to the beginning, or after the completion, of the technical school program. Any applicant who has received training in the electrical construction trade in the armed service of the United States may be eligible to apply armed service work experience towards qualification to

complete an apprenticeship and take the examination for the journey level electrician certificate of competency.

(f) An applicant for a specialty electrician certificate of competency who, after January 1, 2000, has successfully completed a two-year program in the electrical construction trade at a public community or technical college, or a not-for-profit nationally accredited technical or trade school licensed by the workforce training and education coordinating board under chapter 28C.10 RCW, may substitute up to one year of the technical or trade school program for one year of work experience under a master journey level electrician, journey level electrician, master specialty electrician working in that electrician's specialty, or specialty electrician working in that electrician's specialty. Any applicant who has received training in the electrical construction trade in the armed services of the United States may be eligible to apply armed service work experience towards qualification to take the examination for an appropriate specialty electrician certificate of competency.

(g) The department must determine whether hours of training and experience in the armed services or school program are in the electrical construction trade and appropriate as a substitute for hours of work experience. The department must use the following criteria for evaluating the equivalence of classroom electrical training programs and work in the electrical construction trade:

(i) A two-year electrical training program must consist of ((~~three thousand~~)) 3,000 or more hours.

(ii) In a two-year electrical training program, a minimum of ((~~two thousand four hundred~~)) 2,400 hours of student/instructor contact time must be technical electrical instruction directly related to the scope of work of the electrical specialty. Student/instructor contact time includes lecture and in-school lab.

(iii) The department may not allow credit for a program that accepts more than ((~~one thousand~~)) 1,000 hours transferred from another school's program.

(iv) Electrical specialty training school programs of less than two years will have all of the above student/instructor contact time hours proportionately reduced. Such programs may not apply to more than fifty percent of the work experience required to attain certification.

(v) Electrical training programs of less than two years may not be credited towards qualification for journey level electrician unless the training program is used to gain qualification for a ((~~four thousand~~)) 4,000 hour electrical specialty.

(h) No other requirement for eligibility may be imposed.

(2) The department shall establish reasonable rules for the examinations to be given applicants for certificates of competency. In establishing the rules, the department shall consult with the board. Upon determination that the applicant is eligible to take the examination, the department shall so notify the applicant, indicating instructions for taking the examination.

(3) No noncertified individual may work unsupervised more than one year beyond the date when the trainee would be eligible to test for a certificate of competency if working on a full-time basis after original application for the trainee certificate. For the purposes of this section, "full-time basis" means ((~~two thousand~~)) 2,000 hours.

Sec. 2. RCW 19.28.195 and 2018 c 249 s 4 are each amended to read as follows:

(1) ((~~The~~)) Until July 1, 2026, notwithstanding RCW 19.28.161(2)(a)(i) and 19.28.191(1)(c)(i), the department ((~~may~~)) shall permit ((~~an applicant who obtained experience and training equivalent to a journey level apprenticeship program to take the examination if the applicant establishes that the applicant has the equivalent training and experience and demonstrates good cause for not completing the required minimum hours of work under standards applicable on July 1, 2023~~)):

(a) A person issued an electrical training certificate to work to gain the experience required to qualify for the journey level electrician certification examination without registering in an apprenticeship program approved under chapter 49.04 RCW or equivalent out-of-state apprenticeship program if before July 1, 2023, the trainee has:

(i) 3,000 hours of lawful experience worked in the electrical construction trade regulated under this chapter; or

(ii) Completed a two-year training school program pursuant to RCW 19.28.191(1)(e).

(b) Electrical trainees described in (a) of this subsection to qualify for the journey level electrician certification examination without completing the work and education requirements of an apprenticeship approved under chapter 49.04 RCW or completing an equivalent out-of-state apprenticeship program. To be eligible to take the examination for a journey level certificate of competency, the applicant must demonstrate 8,000 hours of lawful experience working in the electrical construction trade regulated under this chapter. Four thousand of the hours must be new industrial or commercial electrical installations.

(2) This section expires July 1, ((~~2025~~)) 2026.

NEW SECTION. **Sec. 3.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2023.

Passed by the Senate February 27, 2023.
Passed by the House April 5, 2023.
Approved by the Governor April 14, 2023.
Filed in Office of Secretary of State April 14, 2023.

CHAPTER 96

[Engrossed Senate Bill 5336]

MAIN STREET TRUST FUND TAX CREDIT—POPULATION CRITERIA

AN ACT Relating to the main street trust fund tax credit; and amending RCW 82.73.030 and 82.73.025.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 82.73.030 and 2021 c 112 s 2 are each amended to read as follows:

(1) Subject to the limitations in this chapter, a credit is allowed against the tax imposed by chapters 82.04 and 82.16 RCW for approved contributions that are made by a person to a program or the main street trust fund.

(2)(a) Except as provided in (b) of this subsection, the credit allowed under this section is limited to an amount equal to:

(i) Seventy-five percent of the approved contribution made by a person to a program; or

(ii) Fifty percent of the approved contribution made by a person to the main street trust fund.

(b) Beginning with contributions made in calendar year 2021, an additional credit is allowed equal to 25 percent of the approved contribution made by a person to the main street trust fund.

(3) The department may not approve credit with respect to a program in a city or town with a population of ((~~one hundred ninety thousand~~)) 190,000 persons or more at the time of designation under RCW 43.360.030.

(4) The department must keep a running total of all credits approved under this chapter for each calendar year. The department may not approve any credits under this section that would cause the total amount of approved credits statewide to exceed $5,000,000 in any calendar year.

(5)(a)(i) The total credits allowed under this chapter for contributions made to each program may not exceed $160,000 in a calendar year.

(ii) Between 8:00 a.m., Pacific standard time, on the second Monday in January and 8:00 a.m., Pacific daylight time, on April 1st of the same calendar year, the department must evenly allocate the amount of statewide credits allowed under subsection (4) of this section based on the total number of programs and the main street trust fund as of January 1st in the same calendar year. The department may not approve contributions for a program or the main street trust fund that would cause the total amount of approved credits for a program or the main street trust fund to exceed the allocated amount.

(b) The total credits allowed under this chapter for a person may not exceed ((~~two hundred fifty thousand dollars~~)) $250,000 in a calendar year.

(6) Except as provided in subsection (8) of this section, the credit may be claimed against any tax due under chapters 82.04 and 82.16 RCW only in the calendar year immediately following the calendar year in which the credit was approved by the department and the contribution was made to the program or the main street trust fund. Credits may not be carried over to subsequent years. No refunds may be granted for credits under this chapter.

(7) The total amount of the credit claimed in any calendar year by a person may not exceed the lesser amount of:

(a) The approved credit; or

(b) Seventy-five percent of the amount of the contribution that is made by the person to a program and 75 percent of the amount of the contribution that is made by the person to the main street trust fund, in the prior calendar year.

(8) Any credits provided in accordance with this chapter for approved contributions made in calendar year 2020 may be carried over for an additional two years and must be used by December 31, 2023.

(9) No credit is allowed or may be claimed under this section on or after January 1, 2032.

Sec. 2. RCW 82.73.025 and 2017 3rd sp.s. c 37 s 104 are each amended to read as follows:

(1) A person that was approved for credit as provided in RCW 82.73.020 must ((~~make~~)) send the total approved contribution by November 15th of the calendar year in which the application is approved. If November 15th falls upon

a Saturday, Sunday, or legal holiday, the payment of the contribution will be considered timely if ((~~made~~)) sent on the next business day.

(2)(a) A person that does not make a contribution as required in subsection (1) of this section forfeits all credits for the approved contribution.

(b) The department must make credits forfeited as provided in (a) of this subsection available to new applicants.

(3) A person that was approved for credit as provided in RCW 82.73.020 after November 15th must make the total approved contribution by the end of the calendar year in which the contribution was approved.

Passed by the Senate February 1, 2023.
Passed by the House April 5, 2023.
Approved by the Governor April 14, 2023.
Filed in Office of Secretary of State April 14, 2023.

CHAPTER 97

[Senate Bill 5385]

PUBLIC WORKS—HIGHER EDUCATION BID LIMITS

AN ACT Relating to work performed by institutions of higher education; and amending RCW 28B.10.350 and 28B.50.330.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 28B.10.350 and 2009 c 229 s 2 are each amended to read as follows:

(1) When the cost to The Evergreen State College or any regional or state university of any building, construction, renovation, remodeling, or demolition, other than maintenance or repairs, will equal or exceed the sum of ((~~ninety thousand dollars~~)) $110,000, or ((~~forty-five thousand dollars~~)) $90,000 if the work involves one trade or craft area, complete plans and specifications for the work shall be prepared, the work shall be put out for public bid, and the contract shall be awarded to the responsible bidder who submits the lowest responsive bid.

(2) Any building, construction, renovation, remodeling, or demolition project that exceeds the dollar amounts in subsection (1) of this section is subject to the provisions of chapter 39.12 RCW.

(3) The Evergreen State College or any regional or state university may require a project to be put to public bid even when it is not required to do so under subsection (1) of this section. Any project publicly bid under this subsection is subject to the provisions of chapter 39.12 RCW.

(4) Where the estimated cost of any building, construction, renovation, remodeling, or demolition is less than ((~~ninety thousand dollars~~)) $110,000 or the contract is awarded by the small works roster procedure authorized in RCW 39.04.155, the publication requirements of RCW 39.04.020 do not apply.

(5) In the event of any emergency when the public interest or property of The Evergreen State College or a regional or state university would suffer material injury or damage by delay, the president of such college or university may declare the existence of an emergency and, reciting the facts constituting the same, may waive the requirements of this section with reference to any contract in order to correct the condition causing the emergency. For the

purposes of this section, "emergency" means a condition likely to result in immediate physical injury to persons or to property of the college or university in the absence of prompt remedial action or a condition which immediately impairs the institution's ability to perform its educational obligations.

(6) This section does not apply when a contract is awarded by the small works roster procedure authorized in RCW 39.04.155 or under any other procedure authorized for an institution of higher education.

Sec. 2. RCW 28B.50.330 and 2009 c 229 s 1 are each amended to read as follows:

(1) The boards of trustees of college districts are empowered in accordance with the provisions of this chapter to provide for the construction, reconstruction, erection, equipping, demolition, and major alterations of buildings and other capital assets, and the acquisition of sites, rights-of-way, easements, improvements, or appurtenances for the use of the aforementioned colleges as authorized by the college board in accordance with RCW 28B.50.140; to be financed by bonds payable out of special funds from revenues hereafter derived from income received from such facilities, gifts, bequests, or grants, and such additional funds as the legislature may provide, and payable out of a bond retirement fund to be established by the respective district boards in accordance with rules of the state board. With respect to building, improvements, or repairs, or other work, where the estimated cost exceeds ((~~ninety thousand dollars~~)) $110,000, or ((~~forty-five thousand dollars~~)) $90,000 if the work involves one trade or craft area, complete plans and specifications for the work shall be prepared, the work shall be put out for a public bid, and the contract shall be awarded to the responsible bidder who submits the lowest responsive bid. Any project regardless of dollar amount may be put to public bid.

(2) This section does not apply when a contract is awarded by the small works roster procedure authorized in RCW 39.04.155.

(3) Where the estimated cost to any college of any building, improvements, or repairs, or other work, is less than ((~~ninety thousand dollars~~)) $110,000, or ((~~forty-five thousand dollars~~)) $90,000 if the work involves one trade or craft area, the publication requirements of RCW 39.04.020 do not apply.

Passed by the Senate February 27, 2023.
Passed by the House April 5, 2023.
Approved by the Governor April 14, 2023.
Filed in Office of Secretary of State April 14, 2023.

CHAPTER 98

[Engrossed Substitute Senate Bill 5512]

EDUCATION DATA CENTER—HIGHER EDUCATION DATA MEASURES

AN ACT Relating to adding financial transparency reporting requirements to the public four-year dashboard; and amending RCW 28B.77.090.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 28B.77.090 and 2013 c 23 s 60 are each amended to read as follows:

(1) An accountability monitoring and reporting system is established as part of a continuing effort to make meaningful and substantial progress towards the achievement of long-term performance goals in higher education.

(2) To provide consistent, easily understood data among the public four-year institutions of higher education within Washington and in other states, the following data must be reported to the education data center annually by December 1st, and at a minimum include data recommended by a national organization representing state chief executives. The education data center in consultation with the council may change the data requirements to be consistent with best practices across the country. This data must, to the maximum extent possible, be disaggregated by race and ethnicity, gender, state and county of origin, age, and socioeconomic status, and include the following for the four-year institutions of higher education:

(a) Bachelor's degrees awarded;

(b) Graduate and professional degrees awarded;

(c) Graduation rates: The number and percentage of students who graduate within four years for bachelor's degrees and within the extended time, which is six years for bachelor's degrees;

(d) Transfer rates: The annual number and percentage of students who transfer from a two-year to a four-year institution of higher education;

(e) Time and credits to degree: The average length of time in years and average number of credits that graduating students took to earn a bachelor's degree;

(f) Enrollment in remedial education: The number and percentage of entering first-time undergraduate students who place into and enroll in remedial mathematics, English, or both;

(g) Success beyond remedial education: The number and percentage of entering first-time undergraduate students who complete entry college-level math and English courses within the first two consecutive academic years;

(h) Credit accumulation: The number and percentage of first-time undergraduate students completing two quarters or one semester worth of credit during their first academic year;

(i) Retention rates: The number and percentage of entering undergraduate students who enroll consecutively from fall-to-spring and fall-to-fall at an institution of higher education;

(j) Course completion: The percentage of credit hours completed out of those attempted during an academic year;

(k) Program participation and degree completion rates in bachelor and advanced degree programs in the sciences, which includes agriculture and natural resources, biology and biomedical sciences, computer and information sciences, engineering and engineering technologies, health professions and clinical sciences, mathematics and statistics, and physical sciences and science technologies, including participation and degree completion rates for students from traditionally underrepresented populations;

(l) Annual enrollment: Annual unduplicated number of students enrolled over a twelve-month period at institutions of higher education including by student level;

(m) Annual first-time enrollment: Total first-time students enrolled in a four-year institution of higher education;

(n) Completion ratio: Annual ratio of undergraduate and graduate degrees and certificates, of at least one year in expected length, awarded per one hundred full-time equivalent undergraduate students at the state level;

(o) Market penetration: Annual ratio of undergraduate and graduate degrees and certificates, of at least one year in program length, awarded relative to the state's population age eighteen to twenty-four years old with a high school diploma;

(p) Student debt load: Median three-year distribution of debt load, excluding private loans or debts incurred before coming to the institution;

(q) Data related to enrollment, completion rates, participation rates, and debt load shall be disaggregated for students in the following income brackets to the maximum extent possible:

(i) Up to ((~~seventy~~)) 70 percent of the median family income;

(ii) Between ((~~seventy-one~~)) 71 percent and ((~~one hundred twenty-five~~)) 125 percent of the median family income; and

(iii) Above ((~~one hundred twenty-five~~)) 125 percent of the median family income; ((~~and~~))

(r) Yearly percentage increases in the average cost of undergraduate instruction;

(s) Ratio of fall headcount students to fall headcount faculty appointments;

(t) Annualized ratio of full-time equivalent students to annualized full-time equivalent nonfaculty positions;

(u) Net position for the academy as defined by the national center for education statistics, integrated postsecondary education data system data glossary (2022);

(v) Annual primary reserve ratio as measured by expendable net assets to total expenses;

(w) Cash on hand as calculated by the ratio of total cash on hand for the academy divided by operating expenses for the academy minus noncash expenses divided by 365;

(x) Viability ratio as measured by unrestricted and expendable net assets, not including capital projects expendable net assets, divided by total debt;

(y) Ratio of total expendable net assets for the academy as defined by the national center for education statistics, integrated postsecondary education data system data glossary (2022) per full-time equivalent student;

(z) Total market value of college or university endowment holdings; and

(aa) Total annual market value of college or university endowment earnings, the amount of the annual earnings that remain in the endowment after fees are removed, and the percentage of the annual remaining endowment earnings after fees are removed to total annual market value of college or university endowment earnings.

(3) Four-year institutions of higher education must count all students when collecting data, not only first-time, full-time first-year students.

(4) In conjunction with the office of financial management, all four-year institutions of higher education must display the data described in subsection (2) of this section in a uniform dashboard format on the office of financial management's website no later than ((~~December 1, 2011, and updated thereafter annually by December 1st~~)) January 15th. To the maximum extent possible, the information must be viewable by race and ethnicity, gender, state and county of

origin, age, and socioeconomic status. The information may be tailored to meet the needs of various target audiences such as students, researchers, and the general public.

(5) The council shall use performance data from the education data center for the purposes of strategic planning, to report on progress toward achieving statewide goals, and to develop priorities proposed in the ((~~ten~~)) 10-year plan for higher education.

Passed by the Senate March 3, 2023.
Passed by the House April 5, 2023.
Approved by the Governor April 14, 2023.
Filed in Office of Secretary of State April 14, 2023.

CHAPTER 99

[Substitute Senate Bill 5538]

POSTRETIREMENT EMPLOYMENT—NURSING POSITIONS

AN ACT Relating to postretirement employment in nursing positions for a state agency; amending RCW 41.37.050 and 41.40.037; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 41.37.050 and 2011 1st sp.s. c 47 s 17 are each amended to read as follows:

(1)(a) If a retiree enters employment in an eligible position with an employer as defined in this chapter sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every eight hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) If a retiree enters employment in an eligible position with an employer as defined in chapter 41.32, 41.35, or 41.40 RCW sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every eight hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(c) The benefit reduction provided in (a) and (b) of this subsection will accrue for a maximum of one hundred sixty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2)(a) A retiree who has satisfied the break in employment requirement of subsection (1) of this section may work up to eight hundred sixty-seven hours per calendar year in an eligible position as defined in RCW 41.32.010, 41.35.010, or 41.40.010, or as a law enforcement officer or firefighter as defined in RCW 41.26.030, or in a position covered by annuity and retirement income plans offered by institutions of higher education pursuant to RCW 28B.10.400, without suspension of his or her benefit.

(b) Between the effective date of this section and July 1, 2026, a retiree who has satisfied the break in employment requirement of subsection (1) of this section, and who enters service in a nonadministrative position as a licensed nurse for a state agency, shall continue to receive pension payments while

engaged in such service, until the retiree has rendered service for more than 1,040 hours in a calendar year.

(3) If the retiree opts to reestablish membership under this chapter, he or she terminates his or her retirement status and becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with this chapter. However, if the right to retire is exercised to become effective before the member has rendered two uninterrupted years of service, the retirement formula and survivor options the member had at the time of the member's previous retirement shall be reinstated.

(4) The department shall collect and provide the state actuary with information relevant to the use of this section for the select committee on pension policy.

Sec. 2. RCW 41.40.037 and 2022 c 110 s 5 are each amended to read as follows:

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every eight hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred sixty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2)(a) A retiree from plan 1, plan 2, or plan 3 who has satisfied the break in employment requirement of subsection (1) of this section may work up to eight hundred sixty-seven hours per calendar year in an eligible position, as defined in RCW 41.32.010, 41.35.010, 41.37.010, or 41.40.010, or as a firefighter or law enforcement officer, as defined in RCW 41.26.030, or in a position covered by annuity and retirement income plans offered by institutions of higher education pursuant to RCW 28B.10.400, without suspension of his or her benefit.

(b) Between March 23, 2022, and July 1, 2025, a retiree, including a retiree who has retired under the alternate early retirement provisions of RCW 41.40.630(3)(b) or 41.40.820(3)(b), who reenters employment more than 100 days after his or her accrual date, and who enters service in a school district in a nonadministrative position shall continue to receive pension payments while engaged in such service, until the retiree has rendered service for more than 1,040 hours in a calendar year.

(c) Between the effective date of this section and July 1, 2026, a retiree, including a retiree who has retired under the alternate early retirement provisions of RCW 41.40.630(3)(b) or 41.40.820(3)(b), and who enters service in a nonadministrative position as a licensed nurse for a state agency, shall continue to receive pension payments while engaged in such service, until the retiree has rendered service for more than 1,040 hours in a calendar year.

(3) If the retiree opts to reestablish membership under RCW 41.40.023(12), he or she terminates his or her retirement status and becomes a member. Retirement benefits shall not accrue during the period of membership and the

individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with RCW 41.40.180. However, if the right to retire is exercised to become effective before the member has rendered two uninterrupted years of service, the retirement formula and survivor options the member had at the time of the member's previous retirement shall be reinstated.

(4) The department shall collect and provide the state actuary with information relevant to the use of this section for the select committee on pension policy.

(5) The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has a contractual right to be employed for more than five months in a calendar year without a reduction of his or her pension.

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.

Passed by the Senate March 6, 2023.
Passed by the House April 5, 2023.
Approved by the Governor April 14, 2023.
Filed in Office of Secretary of State April 14, 2023.

CHAPTER 100

[Substitute Senate Bill 5547]

NURSING POOLS

AN ACT Relating to transparency for nursing pools that provide health care personnel to hospitals and long-term care facilities; amending RCW 18.52C.030 and 18.52C.040; reenacting and amending RCW 18.52C.020; and adding a new section to chapter 18.52C RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 18.52C.020 and 2012 c 10 s 36 are each reenacted and amended to read as follows:

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

(1) "Adult family home" means a residential home licensed pursuant to chapter 70.128 RCW.

(2) "Assisted living facility" means an assisted living facility licensed under chapter 18.20 RCW.

(3) "Enhanced services facility" means an enhanced services facility licensed under chapter 70.97 RCW.

(4) "Health care facility" means a nursing home, hospital, hospice care facility, home health care agency, hospice agency, assisted living facility, group home, or other entity for the delivery of health care or long-term care services, including chore services provided under chapter 74.39A RCW.

((~~(3)~~)) (5) "Health care personnel" means a registered nurse or licensed practical nurse as defined in chapter 18.79 RCW, a surgical technologist registered under chapter 18.215 RCW, a diagnostic radiologic technologist or cardiovascular invasive specialist certified under chapter 18.84 RCW, a respiratory care practitioner licensed under chapter 18.89 RCW, or a nursing

assistant-certified as defined in RCW 18.88A.020 who is a temporary employee or a referred independent contractor of a nursing pool.

(6) "Hospital" means a facility licensed under chapter 70.41 or 71.12 RCW.

(7) "Long-term care personnel" means any person who qualifies as a long-term care worker as defined in RCW 49.95.010.

(8) "Nursing home" means any nursing home facility licensed pursuant to chapter 18.52 RCW.

(((~~(4)~~))) (9) "Nursing pool" means any person engaged in the business of providing, procuring, or referring health care or long-term care personnel for temporary employment in health care facilities, such as licensed nurses or practical nurses, nursing assistants, and chore service providers. "Nursing pool" does not include an individual who only engages in providing his or her own services. "Nursing pool" does not include a hospital, clinic, nursing home, assisted living facility, enhanced services facility, or an adult family home that provides temporary staffing to its own organization.

(((~~(5)~~))) (9) "Person" includes an individual, firm, corporation, partnership, or association.

(((~~(6)~~))) (10) "Secretary" means the secretary of the department of health.

Sec. 2. RCW 18.52C.030 and 1996 c 191 s 28 are each amended to read as follows:

(1) A person who operates a nursing pool shall register the pool with the secretary. Each separate location of the business of a nursing pool shall have a separate registration.

(2) In addition to the requirements in subsection (1) of this section, a person who operates a nursing pool that employs, procures, or refers health care or long-term care personnel for temporary employment in a hospital, nursing home, assisted living facility, enhanced services facility, or an adult family home as defined in RCW 18.52C.020 shall:

(a) Register the pool with the secretary annually; and

(b) Disclose corporate structure and ownership, if any, which the secretary shall make publicly available, as part of the annual registration process.

(3) The secretary shall establish administrative procedures, administrative requirements, and fees as provided in RCW 43.70.250 and 43.70.280. All fees or assessments levied by the state to cover the costs associated with this section shall be borne by the persons who operate nursing pools.

NEW SECTION. **Sec. 3.** A new section is added to chapter 18.52C RCW to read as follows:

(1) Nursing pools operating in Washington state shall report to the secretary annually the following information, at a minimum, by county in which the health care or long-term care personnel performed the work and by type of hospital, nursing home, assisted living facility, enhanced services facility, or adult family home:

(a) The average amount charged by the nursing pool for health care or long-term care personnel by license type;

(b) The average amount paid by the nursing pool to health care or long-term care personnel by license type;

(c) The average amount of labor-related costs paid by the nursing pool by health care or long-term care personnel license type, such as payroll taxes,

workers' compensation insurance, professional liability coverage, credentialing, and other employee-related costs;

(d) The number of placements made within 25 miles and 50 miles of the health care or long-term care personnel's residence as identified in their employee tax information; and

(e) The total number of placements made by the nursing pool.

(2) The secretary shall produce an annual report to be made available on the department of health's website. The annual report shall include, at a minimum, the following information by county in which the health care or long-term care personnel performed the work and by type of hospital, nursing home, assisted living facility, enhanced services facility, or adult family home:

(a) The average amount charged by nursing pools for health care or long-term care personnel by license type;

(b) The average amount paid by the nursing pool to health care or long-term care personnel by license type;

(c) The average amount of labor-related costs paid by the nursing pool by health care or long-term care personnel license type, such as payroll taxes, workers' compensation insurance, professional liability coverage, credentialing, and other employee-related costs;

(d) The number of placements made within 25 miles and 50 miles of the health care or long-term care personnel's residence as identified in their employee tax information; and

(e) The total number of placements made by each registered nursing pool.

Sec. 4. RCW 18.52C.040 and 1997 c 392 s 528 are each amended to read as follows:

(1) The nursing pool shall document that each ((~~temporary employee or referred independent contractor~~)) health care or long-term care personnel provided or referred to health care facilities currently meets the applicable minimum state credentialing requirements including, but not limited to: Licensure, certification, training, health requirements, and continuing education standards, for the health care or long-term care personnel's position in the health care facility.

(2) The nursing pool shall not require, as a condition of employment or referral, that employees or independent contractors of the nursing pool recruit new employees or independent contractors for the nursing pool from among the permanent employees of the health care facility to which the nursing pool employee or independent contractor has been assigned or referred.

(3) The nursing pool shall carry professional and general liability insurance to insure against any loss or damage occurring, whether professional or otherwise, as the result of the negligence of its employees, agents or independent contractors for acts committed in the course of their employment with the nursing pool: PROVIDED, That a nursing pool that only refers self-employed, independent contractors to health care facilities shall carry professional and general liability insurance to cover its own liability as a nursing pool which refers self-employed, independent contractors to health care facilities: AND PROVIDED FURTHER, That it shall require, as a condition of referral, that self-employed, independent contractors carry professional and general liability insurance to insure against loss or damage resulting from their own acts committed in the course of their own employment by a health care facility.

(4) The nursing pool shall provide the nursing home, assisted living facility, enhanced services facility, or adult family home written notice, at least 90 days in advance, of contract changes including, but not limited to, availability or charges for services, items, or activities.

(5) A nursing pool may not, in any contract with health care personnel or a nursing home, assisted living facility, enhanced services facility, or adult family home that lasts longer than 13 weeks, require the payment of liquidated damages, employment fees, or other compensation if health care or long-term care personnel is hired as a permanent employee by the nursing home, assisted living facility, enhanced services facility, or adult family home.

(6) Nursing pools shall provide to the secretary annually the average total hours worked and billed by nursing category and as aggregated by nursing home, assisted living facility, enhanced services facility, or adult family home facility type.

(7) The uniform disciplinary act, chapter 18.130 RCW, shall govern the issuance and denial of registration and the discipline of persons registered under this chapter. The secretary shall be the disciplinary authority under this chapter.

((~~(5)~~)) (8) The nursing pool shall conduct a ((~~criminal~~)) background check on all ((~~employees and independent contractors~~)) health care and long-term care personnel as required under RCW 43.43.842 and 74.39A.056, and an exclusion verification as required under 42 U.S.C. Sec. 1320a-7, prior to employment or referral of the ((~~employee or independent contractor~~)) health care or long-term care personnel.

Passed by the Senate March 6, 2023.
Passed by the House April 5, 2023.
Approved by the Governor April 14, 2023.
Filed in Office of Secretary of State April 14, 2023.

CHAPTER 101

[Substitute Senate Bill 5604]

MENTAL HEALTH AND HOUSING—USE OF SALES AND USE TAXES

AN ACT Relating to county sales and use taxes for mental health and housing; and amending RCW 82.14.460 and 82.14.540.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 82.14.460 and 2021 c 296 s 7 are each amended to read as follows:

(1)(a) A county legislative authority may authorize, fix, and impose a sales and use tax in accordance with the terms of this chapter.

(b) If a county with a population over eight hundred thousand has not imposed the tax authorized under this subsection by January 1, 2011, any city with a population over thirty thousand located in that county may authorize, fix, and impose the sales and use tax in accordance with the terms of this chapter. The county must provide a credit against its tax for the full amount of tax imposed under this subsection (1)(b) by any city located in that county if the county imposes the tax after January 1, 2011.

(2) The tax authorized in this section is in addition to any other taxes authorized by law and must be collected from those persons who are taxable by

the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the county for a county's tax and within a city for a city's tax. The rate of tax equals one-tenth of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax.

(3) Moneys collected under this section must be used solely for the purpose of providing for the operation or delivery of chemical dependency or mental health treatment programs and services and for the operation or delivery of therapeutic court programs and services. Moneys collected by cities and counties under this section may also be used for modifications to existing facilities to address health and safety needs necessary for the provision, operation, or delivery of chemical dependency or mental health treatment programs or services otherwise funded with moneys collected in this section. For the purposes of this section, "programs and services" includes, but is not limited to, treatment services, case management, transportation, and housing that are a component of a coordinated chemical dependency or mental health treatment program or service. Every county that authorizes the tax provided in this section shall, and every other county may, establish and operate a therapeutic court component for dependency proceedings designed to be effective for the court's size, location, and resources.

(4) All moneys collected under this section must be used solely for the purpose of providing new or expanded programs and services as provided in this section, except as follows:

(a) For a county with a population larger than twenty-five thousand or a city with a population over thirty thousand, which initially imposed the tax authorized under this section prior to January 1, 2012, a portion of moneys collected under this section may be used to supplant existing funding for these purposes as follows: Up to fifty percent may be used to supplant existing funding in calendar years 2011-2012; up to forty percent may be used to supplant existing funding in calendar year 2013; up to thirty percent may be used to supplant existing funding in calendar year 2014; up to twenty percent may be used to supplant existing funding in calendar year 2015; and up to ten percent may be used to supplant existing funding in calendar year 2016;

(b) For a county with a population larger than twenty-five thousand or a city with a population over thirty thousand, which initially imposes the tax authorized under this section after December 31, 2011, a portion of moneys collected under this section may be used to supplant existing funding for these purposes as follows: Up to fifty percent may be used to supplant existing funding for up to the first three calendar years following adoption; and up to twenty-five percent may be used to supplant existing funding for the fourth and fifth years after adoption;

(c) For a county with a population of less than twenty-five thousand, a portion of moneys collected under this section may be used to supplant existing funding for these purposes as follows: Up to eighty percent may be used to supplant existing funding in calendar years 2011-2012; up to sixty percent may be used to supplant existing funding in calendar year 2013; up to forty percent may be used to supplant existing funding in calendar year 2014; up to twenty percent may be used to supplant existing funding in calendar year 2015; and up to ten percent may be used to supplant existing funding in calendar year 2016; and

(d) Notwithstanding (a) through (c) of this subsection, moneys collected under this section may be used to support the cost of the judicial officer and support staff of a therapeutic court.

(5) Nothing in this section may be interpreted to prohibit the use of moneys collected under this section for the replacement of lapsed federal funding previously provided for the operation or delivery of services and programs as provided in this section.

Sec. 2. RCW 82.14.540 and 2019 c 338 s 1 are each amended to read as follows:

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

(a) "Nonparticipating city" is a city that does not impose a sales and use tax in accordance with the terms of this section.

(b) "Nonparticipating county" is a county that does not impose a sales and use tax in accordance with the terms of this section.

(c) "Participating city" is a city that imposes a sales and use tax in accordance with the terms of this section.

(d) "Participating county" is a county that imposes a sales and use tax in accordance with the terms of this section.

(e) "Qualifying local tax" means the following tax sources, if the tax source is instated no later than twelve months after July 28, 2019:

(i) The affordable housing levy authorized under RCW 84.52.105;

(ii) The sales and use tax for housing and related services authorized under RCW 82.14.530, provided the city has imposed the tax at a minimum or ((~~[of]~~)) of at least half of the authorized rate;

(iii) The sales tax for chemical dependency and mental health treatment services or therapeutic courts authorized under RCW 82.14.460 imposed by a city; and

(iv) The levy authorized under RCW 84.55.050, if used solely for affordable housing.

(2)(a) A county or city legislative authority may authorize, fix, and impose a sales and use tax in accordance with the terms of this section.

(b) The tax under this section is assessed on the selling price in the case of a sales tax, or value of the article used, in the case of a use tax.

(c) The rate of the tax under this section for an individual participating city and an individual participating county may not exceed:

(i) Beginning on July 28, 2019, until twelve months after July 28, 2019:

(A) 0.0073 percent for a:

(I) Participating city, unless the participating city levies a qualifying local tax; and

(II) Participating county, within the limits of nonparticipating cities within the county and within participating cities that do not currently levy a qualifying tax;

(B) 0.0146 percent for a:

(I) Participating city that currently levies a qualifying local tax;

(II) Participating city if the county in which it is located declares they will not levy the sales and use tax authorized under this section or does not adopt a resolution in accordance with this section; and

(III) Participating county within the unincorporated areas of the county and any city that declares they will not levy the sales and use tax authorized under this section or does not adopt a resolution in accordance with this section;

(ii) Beginning twelve months after July 28, 2019:

(A) 0.0073 percent for a:

(I) Participating city that is located within a participating county if the participating city is not levying a qualifying local tax; and

(II) Participating county, within the limits of a participating city if the participating city is not levying a qualifying local tax;

(B) 0.0146 percent within the limits of a:

(I) Participating city that is levying a qualifying local tax; and

(II) Participating county within the unincorporated area of the county and within the limits of any nonparticipating city that is located within the county.

(d) A county may not levy the tax authorized under this section within the limits of a participating city that levies a qualifying local tax.

(e)(i) In order for a county or city legislative authority to impose the tax under this section, the authority must adopt:

(A) A resolution of intent to adopt legislation to authorize the maximum capacity of the tax in this section within six months of July 28, 2019; and

(B) Legislation to authorize the maximum capacity of the tax in this section within one year of July 28, 2019.

(ii) Adoption of the resolution of intent and legislation requires simple majority approval of the enacting legislative authority.

(iii) If a county or city has not adopted a resolution of intent in accordance with the terms of this section, the county or city may not authorize, fix, and impose the tax.

(3) The tax imposed under this section must be deducted from the amount of tax otherwise required to be collected or paid to the department of revenue under chapter 82.08 or 82.12 RCW. The department must perform the collection of such taxes on behalf of the county or city at no cost to the county or city.

(4) By December 31, 2019, or within thirty days of a county or city authorizing the tax under this section, whichever is later, the department must calculate the maximum amount of tax distributions for each county and city authorizing the tax under this section as follows:

(a) The maximum amount for a participating county equals the taxable retail sales within the county in state fiscal year 2019 multiplied by the tax rate imposed under this section. If a county imposes a tax authorized under this section after a city located in that county has imposed the tax, the taxable retail sales within the city in state fiscal year 2019 must be subtracted from the taxable retail sales within the county for the calculation of the maximum amount; and

(b) The maximum amount for a city equals the taxable retail sales within the city in state fiscal year 2019 multiplied by the tax rate imposed under subsection (1) of this section.

(5) The tax must cease to be distributed to a county or city for the remainder of any fiscal year in which the amount of tax exceeds the maximum amount in subsection (4) of this section. The department must remit any annual tax revenues above the maximum to the state treasurer for deposit in the general fund. Distributions to a county or city meeting the maximum amount must resume at the beginning of the next fiscal year.

(6)(a) ((~~If a county has a population greater than four hundred thousand or a city has a population greater than one hundred thousand, the~~)) The moneys collected or bonds issued under this section may only be used for the following purposes:

(i) Acquiring, rehabilitating, or constructing affordable housing, which may include new units of affordable housing within an existing structure or facilities providing supportive housing services under RCW 71.24.385; ((~~or~~))

(ii) Funding the operations and maintenance costs of new units of affordable or supportive housing((~~.~~

~~(b) If a county has a population of four hundred thousand or less or a city has a population of one hundred thousand or less, the moneys collected under this section may only be used for the purposes provided in (a) of this subsection~~)); or ((~~for~~))

(iii) For providing rental assistance to tenants.

(b) Administrative costs of the county or city associated with administering this section may not exceed 10 percent of the annual tax distributed to the jurisdiction under this section.

(7) The housing and services provided pursuant to subsection (6) of this section may only be provided to persons whose income is at or below sixty percent of the median income of the county or city imposing the tax.

(8) In determining the use of funds under subsection (6) of this section, a county or city must consider the income of the individuals and families to be served, the leveraging of the resources made available under this section, and the housing needs within the jurisdiction of the taxing authority.

(9) To carry out the purposes of this section including, but not limited to, financing loans or grants to nonprofit organizations or public housing authorities, the legislative authority of the county or city imposing the tax has the authority to issue general obligation or revenue bonds within the limitations now or hereafter prescribed by the laws of this state, and may use, and is authorized to pledge, the moneys collected under this section for repayment of such bonds.

(10) A county or city may enter into an interlocal agreement with one or more counties, cities, or public housing authorities in accordance with chapter 39.34 RCW. The agreement may include, but is not limited to, pooling the tax receipts received under this section, pledging those taxes to bonds issued by one or more parties to the agreement, and allocating the proceeds of the taxes levied or the bonds issued in accordance with such interlocal agreement and this section.

(11) Counties and cities imposing the tax under this section must report annually to the department of commerce on the collection and use of the revenue. The department of commerce must adopt rules prescribing content of such reports. By December 1, 2019, and annually thereafter, and in compliance with RCW 43.01.036, the department of commerce must submit a report annually to the appropriate legislative committees with regard to such uses.

(12) The tax imposed by a county or city under this section expires twenty years after the date on which the tax is first imposed.

Passed by the Senate March 1, 2023.
Passed by the House April 5, 2023.
Approved by the Governor April 14, 2023.

Filed in Office of Secretary of State April 14, 2023.

CHAPTER 102

[Substitute Senate Bill 5087]

REMOVING LANGUAGE—DEFECTS AND OMISSIONS

AN ACT Relating to removing language from the Revised Code of Washington that has been identified by the justices of the supreme court or judges of the superior courts as defects and omissions in the laws pursuant to Article IV, section 25 of the Washington state Constitution; amending RCW 2.43.040, 2.48.190, 4.16.190, 48.140.010, 6.25.030, 10.105.900, 7.80.120, 9.94A.530, 9A.46.020, 10.05.030, 10.95.030, 10.95.035, 10.95.030, 41.56.0251, 43.135.034, 35A.66.020, and 9A.72.160; and repealing RCW 2.48.210, 4.56.250, 7.48.050, 7.48.052, 7.48.054, 7.48.056, 7.48.058, 7.48.060, 7.48.062, 7.48.064, 7.48.066, 7.48.068, 7.48.070, 7.48.072, 7.48.074, 7.48.076, 7.48.078, 7.48.080, 7.48.085, 7.48.090, 7.48.100, 7.70.150, 9.81.010, 9.81.020, 9.81.030, 9.81.040, 9.81.050, 9.81.060, 9.81.070, 9.81.080, 9.81.082, 9.81.083, 9.81.090, 9.81.110, 9.81.120, 9.91.180, 9.92.100, 10.52.100, 10.58.090, 10.95.040, 10.95.050, 10.95.060, 10.95.070, 10.95.080, 10.95.090, 10.95.100, 10.95.110, 10.95.120, 10.95.130, 10.95.140, 10.95.150, 10.95.160, 10.95.170, 10.95.180, 10.95.185, 10.95.190, 10.95.200, 10.95.901, 18.108.190, 35.13.165, 36.105.010, 36.105.020, 36.105.030, 36.105.040, 36.105.050, 36.105.060, 36.105.070, 36.105.080, 36.105.090, 36.105.100, 39.88.010, 39.88.020, 39.88.030, 39.88.040, 39.88.050, 39.88.060, 39.88.070, 39.88.080, 39.88.090, 39.88.100, 39.88.110, 39.88.120, 39.88.130, 39.88.900, 39.88.905, 39.88.910, 41.20.110, 47.44.030, 49.32.072, 49.32.073, 49.32.074, 66.24.480, 66.28.080, 73.04.050, 73.04.060, and 85.05.130.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 2.43.040 and 2008 c 291 s 3 are each amended to read as follows:

(1) Interpreters appointed according to this chapter are entitled to a reasonable fee for their services and shall be reimbursed for actual expenses which are reasonable as provided in this section.

(2) In all legal proceedings in which the non-English-speaking person is a party, or is subpoenaed or summoned by the appointing authority or is otherwise compelled by the appointing authority to appear, including criminal proceedings, grand jury proceedings, coroner's inquests, mental health commitment proceedings, and other legal proceedings initiated by agencies of government, the cost of providing the interpreter shall be borne by the governmental body initiating the legal proceedings.

(3) In other legal proceedings, the cost of providing the interpreter shall be borne by the non-English-speaking person unless such person is indigent according to adopted standards of the body. In such a case the cost shall be an administrative cost of the governmental body under the authority of which the legal proceeding is conducted.

(4) ((~~The cost of providing the interpreter is a taxable cost of any proceeding in which costs ordinarily are taxed.~~

~~(5)~~)) Subject to the availability of funds specifically appropriated therefor, the administrative office of the courts shall reimburse the appointing authority for up to one-half of the payment to the interpreter where an interpreter is appointed by a judicial officer in a proceeding before a court at public expense and:

(a) The interpreter appointed is an interpreter certified by the administrative office of the courts or is a qualified interpreter registered by the administrative office of the courts in a noncertified language, or where the necessary language

is not certified or registered, the interpreter has been qualified by the judicial officer pursuant to this chapter;

(b) The court conducting the legal proceeding has an approved language assistance plan that complies with RCW 2.43.090; and

(c) The fee paid to the interpreter for services is in accordance with standards established by the administrative office of the courts.

Sec. 2. RCW 2.48.190 and 1987 c 202 s 107 are each amended to read as follows:

No person shall be permitted to practice as an attorney or counselor at law or to do work of a legal nature for compensation, or to represent himself or herself as an attorney or counselor at law or qualified to do work of a legal nature, unless he or she is ((~~a citizen of the United States and~~)) a bona fide resident of this state and has been admitted to practice law in this state: PROVIDED, That any person may appear and conduct his or her own case in any action or proceeding brought by or against him or her, or may appear in his or her own behalf in the small claims department of the district court: AND PROVIDED FURTHER, That an attorney of another state may appear as counselor in a court of this state without admission, upon satisfying the court that his or her state grants the same right to attorneys of this state.

NEW SECTION. **Sec. 3.** RCW 2.48.210 (Oath on admission) and 2013 c 23 s 1 & 1921 c 126 s 12 are each repealed.

Sec. 4. RCW 4.16.190 and 2020 c 312 s 702 are each amended to read as follows:

(((~~(1)~~))) Unless otherwise provided in this section, if a person entitled to bring an action mentioned in this chapter, except for a penalty or forfeiture, or against a sheriff or other officer, for an escape, be at the time the cause of action accrued either under the age of eighteen years, or incompetent or disabled to such a degree that he or she cannot understand the nature of the proceedings, such incompetency or disability as determined according to chapter 11.130 RCW, or imprisoned on a criminal charge prior to sentencing, the time of such disability shall not be a part of the time limited for the commencement of action.

(((~~(2) Subsection (1) of this section with respect to a person under the age of eighteen years does not apply to the time limited for the commencement of an action under RCW 4.16.350.~~)))

NEW SECTION. **Sec. 5.** RCW 4.56.250 (Claims for noneconomic damages—Limitation) and 1986 c 305 s 301 are each repealed.

Sec. 6. RCW 48.140.010 and 2006 c 8 s 201 are each amended to read as follows:

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

(1) "Claim" means a demand for monetary damages for injury or death caused by medical malpractice, and a voluntary indemnity payment for injury or death caused by medical malpractice made in the absence of a demand for monetary damages.

(2) "Claimant" means a person, including a decedent's estate, who is seeking or has sought monetary damages for injury or death caused by medical malpractice.

(3) "Closed claim" means a claim that has been settled or otherwise disposed of by the insuring entity, self-insurer, facility, or provider. A claim may be closed with or without an indemnity payment to a claimant.

(4) "Commissioner" means the insurance commissioner.

(5) "Economic damages" ((~~has the same meaning as in RCW 4.56.250(1)(a)~~)) means objectively verifiable monetary losses, including medical expenses, loss of earnings, burial costs, loss of use of property, cost of replacement or repair, cost of obtaining substitute domestic services, loss of employment, and loss of business or employment opportunities.

(6) "Health care facility" or "facility" means a clinic, diagnostic center, hospital, laboratory, mental health center, nursing home, office, surgical facility, treatment facility, or similar place where a health care provider provides health care to patients, and includes entities described in RCW 7.70.020(3).

(7) "Health care provider" or "provider" has the same meaning as in RCW 7.70.020 (1) and (2).

(8) "Insuring entity" means:

(a) An insurer;

(b) A joint underwriting association;

(c) A risk retention group; or

(d) An unauthorized insurer that provides surplus lines coverage.

(9) "Medical malpractice" means an actual or alleged negligent act, error, or omission in providing or failing to provide health care services that is actionable under chapter 7.70 RCW.

(10) "Noneconomic damages" ((~~has the same meaning as in RCW 4.56.250(1)(b)~~)) means subjective, nonmonetary losses including, but not limited to, pain, suffering, inconvenience, mental anguish, disability or disfigurement incurred by the injured party, emotional distress, loss of society and companionship, loss of consortium, injury to reputation and humiliation, and destruction of the parent-child relationship.

(11) "Self-insurer" means any health care provider, facility, or other individual or entity that assumes operational or financial risk for claims of medical malpractice.

Sec. 7. RCW 6.25.030 and 2011 c 336 s 147 are each amended to read as follows:

The writ of attachment may be issued by the court in which the action is pending on one or more of the following grounds:

(1) That the defendant is a foreign corporation; or

(2) That the defendant is not a resident of this state; or

(3) That the defendant conceals himself or herself so that the ordinary process of law cannot be served upon him or her; or

(4) That the defendant has absconded or absented himself or herself from his or her usual place of abode in this state, so that the ordinary process of law cannot be served upon him or her; or

(5) That the defendant has removed or is about to remove any of his or her property from this state, with intent to delay or defraud his or her creditors; or

(6) That the defendant has assigned, secreted, or disposed of, or is about to assign, secrete, or dispose of, any of his or her property, with intent to delay or defraud his or her creditors; or

(7) That the defendant is about to convert his or her property, or a part thereof, into money, for the purpose of placing it beyond the reach of his or her creditors; or

(8) That the defendant has been guilty of a fraud in contracting the debt or incurring the obligation for which the action is brought; or

(9) That the damages for which the action is brought are for injuries arising from the commission of some felony, gross misdemeanor, or misdemeanor((~~; or~~

~~(10) That the object for which the action is brought is to recover on a contract, express or implied~~)).

NEW SECTION. **Sec. 8.** The following acts or parts of acts are each repealed:

(1) RCW 7.48.050 (Moral nuisances—Definitions) and 1990 c 152 s 1, 1979 c 1 s 1 (Initiative Measure No. 335, approved November 8, 1977), & 1913 c 127 s 1;

(2) RCW 7.48.052 (Moral nuisances) and 1990 c 152 s 2, 1988 c 141 s 1, & 1979 c 1 s 2 (Initiative Measure No. 335, approved November 8, 1977);

(3) RCW 7.48.054 (Moral nuisance—Personal property—Effects of notice) and 1990 c 152 s 3 & 1979 c 1 s 3 (Initiative Measure No. 335, approved November 8, 1977);

(4) RCW 7.48.056 (Abate moral nuisance—Enjoin owner) and 1979 c 1 s 4 (Initiative Measure No. 335, approved November 8, 1977);

(5) RCW 7.48.058 (Maintaining action to abate moral nuisance—Bond) and 2011 c 336 s 212 & 1979 c 1 s 5 (Initiative Measure No. 335, approved November 8, 1977);

(6) RCW 7.48.060 (Moral nuisance—Jurisdiction—Filing a complaint) and 1979 c 1 s 6 (Initiative Measure No. 335, approved November 8, 1977) & 1913 c 127 s 2;

(7) RCW 7.48.062 (Moral nuisance—Restraining order—Violations) and 1979 c 1 s 7 (Initiative Measure No. 335, approved November 8, 1977);

(8) RCW 7.48.064 (Moral nuisance—Hearing—Notice—Consolidation with trial) and 1979 c 1 s 8 (Initiative Measure No. 335, approved November 8, 1977);

(9) RCW 7.48.066 (Finding of moral nuisance—Orders) and 1979 c 1 s 9 (Initiative Measure No. 335, approved November 8, 1977);

(10) RCW 7.48.068 (Abatement of moral nuisance by owner—Effect on injunction) and 1979 c 1 s 10 (Initiative Measure No. 335, approved November 8, 1977);

(11) RCW 7.48.070 (Moral nuisance—Priority of action on calendar) and 1979 c 1 s 11 (Initiative Measure No. 335, approved November 8, 1977) & 1913 c 127 s 3;

(12) RCW 7.48.072 (Moral nuisance—Effects of admission or finding of guilt) and 1979 c 1 s 12 (Initiative Measure No. 335, approved November 8, 1977);

(13) RCW 7.48.074 (Moral nuisance—Evidence of reputation—Admissibility) and 1979 c 1 s 13 (Initiative Measure No. 335, approved November 8, 1977);

(14) RCW 7.48.076 (Moral nuisance—Trial—Costs—Dismissal—Judgment) and 2011 c 336 s 213 & 1979 c 1 s 14 (Initiative Measure No. 335, approved November 8, 1977);

(15) RCW 7.48.078 (Moral nuisance—Judgment—Penalties—Disposal of personal property) and 2011 c 336 s 214 & 1979 c 1 s 15 (Initiative Measure No. 335, approved November 8, 1977);

(16) RCW 7.48.080 (Moral nuisance—Violation of injunction—Contempt of court) and 1989 c 373 s 11, 1979 c 1 s 16 (Initiative Measure No. 335, approved November 8, 1977), & 1913 c 127 s 4;

(17) RCW 7.48.085 (Moral nuisance—Property owner may repossess) and 2011 c 336 s 215 & 1979 c 1 s 17 (Initiative Measure No. 335, approved November 8, 1977);

(18) RCW 7.48.090 (Moral nuisance—Contraband—Forfeitures) and 1979 c 1 s 18 (Initiative Measure No. 335, approved November 8, 1977), 1927 c 94 s 1, & 1913 c 127 s 5; and

(19) RCW 7.48.100 (Moral nuisance—Immunity of certain motion picture theater employees) and 2011 c 336 s 216, 1979 c 1 s 19 (Initiative Measure No. 335, approved November 8, 1977), 1927 c 94 s 2, & 1913 c 127 s 6.

Sec. 9. RCW 10.105.900 and 2003 c 39 s 6 are each amended to read as follows:

This chapter does not apply to property subject to forfeiture under chapter 66.32 RCW, RCW 69.50.505, 9.41.098, 9.46.231, 9A.82.100, 9A.83.030, ((~~7.48.090,~~)) or 77.15.070.

NEW SECTION. **Sec. 10.** RCW 7.70.150 (Actions alleging violation of accepted standard of care—Certificate of merit required) and 2006 c 8 s 304 are each repealed.

NEW SECTION. **Sec. 11.** The following acts or parts of acts are each repealed:

(1) RCW 9.81.010 (Definitions) and 1953 c 142 s 1 & 1951 c 254 s 1;

(2) RCW 9.81.020 (Subversive activities made felony—Penalty) and 2003 c 53 s 44 & 1951 c 254 s 2;

(3) RCW 9.81.030 (Membership in subversive organization is felony—Penalty) and 2003 c 53 s 45 & 1951 c 254 s 3;

(4) RCW 9.81.040 (Disqualification from voting or holding public office) and 1951 c 254 s 4;

(5) RCW 9.81.050 (Dissolution of subversive organizations—Disposition of property) and 1951 c 254 s 5;

(6) RCW 9.81.060 (Public employment—Subversive person ineligible) and 1951 c 254 s 11;

(7) RCW 9.81.070 (Public employment—Determining eligibility—Inquiries—Oath) and 1955 c 377 s 1 & 1951 c 254 s 12;

(8) RCW 9.81.080 (Public employment—Inquiries may be dispensed with, when) and 1955 c 377 s 2 & 1951 c 254 s 13;

(9) RCW 9.81.082 (Membership in subversive organization described) and 1955 c 377 s 3;

(10) RCW 9.81.083 (Communist party declared a subversive organization) and 1955 c 377 s 4;

(11) RCW 9.81.090 (Public employees—Discharge of subversive persons—Procedure—Hearing—Appeal) and 2011 c 336 s 328, 1971 c 81 s 44, & 1951 c 254 s 15;

(12) RCW 9.81.110 (Misstatements are punishable as perjury—Penalty) and 1951 c 254 s 17; and

(13) RCW 9.81.120 (Constitutional rights—Censorship or infringement) and 1951 c 254 s 19.

NEW SECTION. **Sec. 12.** RCW 9.91.180 (Violent video or computer games) and 2003 c 365 s 2 are each repealed.

Sec. 13. RCW 7.80.120 and 2022 c 105 s 1 are each amended to read as follows:

(1) A person found to have committed a civil infraction shall be assessed a monetary penalty.

(a) The maximum penalty and the default amount for a class 1 civil infraction shall be $250, not including statutory assessments, except for an infraction of state law involving (i) potentially dangerous litter as specified in RCW 70A.200.060(4) ((~~or violent video or computer games under RCW 9.91.180~~)), in which case the maximum penalty and default amount is $500; or (ii) a person's refusal to submit to a test or tests pursuant to RCW 79A.60.040 and 79A.60.700, in which case the maximum penalty and default amount is $1,000; or (iii) the misrepresentation of service animals under RCW 49.60.214, in which case the maximum penalty and default amount is $500; or (iv) untraceable firearms pursuant to RCW 9.41.326 or unfinished frames or receivers pursuant to RCW 9.41.327, in which case the maximum penalty and default amount is $500;

(b) The maximum penalty and the default amount for a class 2 civil infraction shall be $125, not including statutory assessments;

(c) The maximum penalty and the default amount for a class 3 civil infraction shall be $50, not including statutory assessments; and

(d) The maximum penalty and the default amount for a class 4 civil infraction shall be $25, not including statutory assessments.

(2) The supreme court shall prescribe by rule the conditions under which local courts may exercise discretion in assessing fines for civil infractions.

(3) Whenever a monetary penalty is imposed by a court under this chapter it is immediately payable. If the person is unable to pay at that time the court may grant an extension of the period in which the penalty may be paid. If the penalty is not paid on or before the time established for payment, the court may proceed to collect the penalty in the same manner as other civil judgments and may notify the prosecuting authority of the failure to pay.

(4) The court may also order a person found to have committed a civil infraction to make restitution.

NEW SECTION. **Sec. 14.** RCW 9.92.100 (Prevention of procreation) and 1909 c 249 s 35 are each repealed.

Sec. 15. RCW 9.94A.530 and 2008 c 231 s 4 are each amended to read as follows:

(1) The intersection of the column defined by the offender score and the row defined by the offense seriousness score determines the standard sentence range (see RCW 9.94A.510, (Table 1) and RCW 9.94A.517, (Table 3)). The additional time for deadly weapon findings or for other adjustments as specified in RCW 9.94A.533 shall be added to the entire standard sentence range. The court may

impose any sentence within the range that it deems appropriate. All standard sentence ranges are expressed in terms of total confinement.

(2) In determining any sentence other than a sentence above the standard range, the trial court may rely on no more information than is admitted by the plea agreement, or admitted, acknowledged, or proved in a trial or at the time of sentencing, or proven pursuant to RCW 9.94A.537. ((~~Acknowledgment includes not objecting to information stated in the presentence reports and not objecting to criminal history presented at the time of sentencing.~~)) Where the defendant disputes material facts, the court must either not consider the fact or grant an evidentiary hearing on the point. The facts shall be deemed proved at the hearing by a preponderance of the evidence, except as otherwise specified in RCW 9.94A.537. On remand for resentencing following appeal or collateral attack, the parties shall have the opportunity to present and the court to consider all relevant evidence regarding criminal history, including criminal history not previously presented.

(3) In determining any sentence above the standard sentence range, the court shall follow the procedures set forth in RCW 9.94A.537. Facts that establish the elements of a more serious crime or additional crimes may not be used to go outside the standard sentence range except upon stipulation or when specifically provided for in RCW 9.94A.535(3)(d), (e), (g), and (h).

Sec. 16. RCW 9A.46.020 and 2011 c 64 s 1 are each amended to read as follows:

(1) A person is guilty of harassment if:

(a) Without lawful authority, the person knowingly threatens:

(i) To cause bodily injury immediately or in the future to the person threatened or to any other person; or

(ii) To cause physical damage to the property of a person other than the actor; or

(iii) To subject the person threatened or any other person to physical confinement or restraint; or

(iv) Maliciously to do any other act which is intended to substantially harm the person threatened or another with respect to his or her physical ((~~or mental~~)) health or safety; and

(b) The person by words or conduct places the person threatened in reasonable fear that the threat will be carried out. "Words or conduct" includes, in addition to any other form of communication or conduct, the sending of an electronic communication.

(2)(a) Except as provided in (b) of this subsection, a person who harasses another is guilty of a gross misdemeanor.

(b) A person who harasses another is guilty of a class C felony if any of the following apply: (i) The person has previously been convicted in this or any other state of any crime of harassment, as defined in RCW 9A.46.060, of the same victim or members of the victim's family or household or any person specifically named in a no-contact or no-harassment order; (ii) the person harasses another person under subsection (1)(a)(i) of this section by threatening to kill the person threatened or any other person; (iii) the person harasses a criminal justice participant who is performing his or her official duties at the time the threat is made; or (iv) the person harasses a criminal justice participant because of an action taken or decision made by the criminal justice participant

during the performance of his or her official duties. For the purposes of (b)(iii) and (iv) of this subsection, the fear from the threat must be a fear that a reasonable criminal justice participant would have under all the circumstances. Threatening words do not constitute harassment if it is apparent to the criminal justice participant that the person does not have the present and future ability to carry out the threat.

(3) Any criminal justice participant who is a target for threats or harassment prohibited under subsection (2)(b)(iii) or (iv) of this section, and any family members residing with him or her, shall be eligible for the address confidentiality program created under RCW 40.24.030.

(4) For purposes of this section, a criminal justice participant includes any (a) federal, state, or local law enforcement agency employee; (b) federal, state, or local prosecuting attorney or deputy prosecuting attorney; (c) staff member of any adult corrections institution or local adult detention facility; (d) staff member of any juvenile corrections institution or local juvenile detention facility; (e) community corrections officer, probation, or parole officer; (f) member of the indeterminate sentence review board; (g) advocate from a crime victim/witness program; or (h) defense attorney.

(5) The penalties provided in this section for harassment do not preclude the victim from seeking any other remedy otherwise available under law.

Sec. 17. RCW 10.05.030 and 2021 c 215 s 116 are each amended to read as follows:

The arraigning judge upon consideration of the petition ((~~and with the concurrence of the prosecuting attorney~~)) may continue the arraignment and refer such person for a diagnostic investigation and evaluation to:

(1) An approved substance use disorder treatment program as designated in chapter 71.24 RCW if the petition alleges a substance use disorder;

(2) An approved mental health center if the petition alleges a mental problem;

(3) The department of social and health services if the petition is brought under RCW 10.05.020(2); or

(4) An approved state-certified domestic violence treatment provider pursuant to RCW 43.20A.735 if the petition alleges a domestic violence behavior problem.

NEW SECTION. **Sec. 18.** RCW 10.52.100 (Identity of child victims of sexual assault not to be disclosed) and 1992 c 188 s 9 are each repealed.

NEW SECTION. **Sec. 19.** RCW 10.58.090 (Sex offenses—Admissibility) and 2008 c 90 s 2 are each repealed.

Sec. 20. RCW 10.95.030 and 2015 c 134 s 5 are each amended to read as follows:

(1) Except as provided in subsection((~~s~~)) (2) ((~~and (3)~~)) of this section, any person convicted of the crime of aggravated first degree murder shall be sentenced to life imprisonment without possibility of release or parole. A person sentenced to life imprisonment under this section shall not have that sentence suspended, deferred, or commuted by any judicial officer and the indeterminate sentence review board or its successor may not parole such prisoner nor reduce the period of confinement in any manner whatsoever including but not limited to any sort of good-time calculation. The department of social and health services

or its successor or any executive official may not permit such prisoner to participate in any sort of release or furlough program.

(2) ((~~If, pursuant to a special sentencing proceeding held under RCW 10.95.050, the trier of fact finds that there are not sufficient mitigating circumstances to merit lenieney, the sentence shall be death. In no case, however, shall a person be sentenced to death if the person had an intellectual disability at the time the crime was committed, under the definition of intellectual disability set forth in (a) of this subsection. A diagnosis of intellectual disability shall be documented by a licensed psychiatrist or licensed psychologist designated by the court, who is an expert in the diagnosis and evaluation of intellectual disabilities. The defense must establish an intellectual disability by a preponderance of the evidence and the court must make a finding as to the existence of an intellectual disability.~~

~~(a) "Intellectual disability" means the individual has: (i) Significantly subaverage general intellectual functioning; (ii) existing concurrently with deficits in adaptive behavior; and (iii) both significantly subaverage general intellectual functioning and deficits in adaptive behavior were manifested during the developmental period.~~

~~(b) "General intellectual functioning" means the results obtained by assessment with one or more of the individually administered general intelligence tests developed for the purpose of assessing intellectual functioning.~~

~~(c) "Significantly subaverage general intellectual functioning" means intelligence quotient seventy or below.~~

~~(d) "Adaptive behavior" means the effectiveness or degree with which individuals meet the standards of personal independence and social responsibility expected for his or her age.~~

~~(e) "Developmental period" means the period of time between conception and the eighteenth birthday.~~

~~(3)~~))(a)(i) Any person convicted of the crime of aggravated first degree murder for an offense committed prior to the person's sixteenth birthday shall be sentenced to a maximum term of life imprisonment and a minimum term of total confinement of twenty-five years.

(ii) Any person convicted of the crime of aggravated first degree murder for an offense committed when the person is at least sixteen years old but less than eighteen years old shall be sentenced to a maximum term of life imprisonment and a minimum term of total confinement of no less than twenty-five years. A minimum term of life may be imposed, in which case the person will be ineligible for parole or early release.

(b) In setting a minimum term, the court must take into account mitigating factors that account for the diminished culpability of youth as provided in *Miller v. Alabama*, 132 S.Ct. 2455 (2012) including, but not limited to, the age of the individual, the youth's childhood and life experience, the degree of responsibility the youth was capable of exercising, and the youth's chances of becoming rehabilitated.

(c) A person sentenced under this subsection shall serve the sentence in a facility or institution operated, or utilized under contract, by the state. During the minimum term of total confinement, the person shall not be eligible for community custody, earned release time, furlough, home detention, partial confinement, work crew, work release, or any other form of early release

authorized under RCW 9.94A.728, or any other form of authorized leave or absence from the correctional facility while not in the direct custody of a corrections officer. The provisions of this subsection shall not apply: (i) In the case of an offender in need of emergency medical treatment; or (ii) for an extraordinary medical placement when authorized under RCW 9.94A.728((~~(3)~~)) (1)(c).

(d) Any person sentenced pursuant to this subsection shall be subject to community custody under the supervision of the department of corrections and the authority of the indeterminate sentence review board. As part of any sentence under this subsection, the court shall require the person to comply with any conditions imposed by the board.

(e) No later than five years prior to the expiration of the person's minimum term, the department of corrections shall conduct an assessment of the offender and identify programming and services that would be appropriate to prepare the offender for return to the community. To the extent possible, the department shall make programming available as identified by the assessment.

(f) No later than one hundred eighty days prior to the expiration of the person's minimum term, the department of corrections shall conduct, and the offender shall participate in, an examination of the person, incorporating methodologies that are recognized by experts in the prediction of dangerousness, and including a prediction of the probability that the person will engage in future criminal behavior if released on conditions to be set by the board. The board may consider a person's failure to participate in an evaluation under this subsection in determining whether to release the person. The board shall order the person released, under such affirmative and other conditions as the board determines appropriate, unless the board determines by a preponderance of the evidence that, despite such conditions, it is more likely than not that the person will commit new criminal law violations if released. If the board does not order the person released, the board shall set a new minimum term not to exceed five additional years. The board shall give public safety considerations the highest priority when making all discretionary decisions regarding the ability for release and conditions of release.

(g) In a hearing conducted under (f) of this subsection, the board shall provide opportunities for victims and survivors of victims of any crimes for which the offender has been convicted to present statements as set forth in RCW 7.69.032. The procedures for victim and survivor of victim input shall be provided by rule. To facilitate victim and survivor of victim involvement, county prosecutor's offices shall ensure that any victim impact statements and known contact information for victims of record and survivors of victims are forwarded as part of the judgment and sentence.

(h) An offender released by the board is subject to the supervision of the department of corrections for a period of time to be determined by the board. The department shall monitor the offender's compliance with conditions of community custody imposed by the court or board and promptly report any violations to the board. Any violation of conditions of community custody established or modified by the board are subject to the provisions of RCW 9.95.425 through 9.95.440.

(i) An offender released or discharged under this section may be returned to the institution at the discretion of the board if the offender is found to have

violated a condition of community custody. The offender is entitled to a hearing pursuant to RCW 9.95.435. The board shall set a new minimum term of incarceration not to exceed five years.

NEW SECTION. **Sec. 21.** The following acts or parts of acts are each repealed:

(1) RCW 10.95.040 (Special sentencing proceeding—Notice—Filing—Service) and 1981 c 138 s 4;

(2) RCW 10.95.050 (Special sentencing proceeding—When held—Jury to decide matters presented—Waiver—Reconvening same jury—Impanelling new jury—Peremptory challenges) and 1981 c 138 s 5;

(3) RCW 10.95.060 (Special sentencing proceeding—Jury instructions—Opening statements—Evidence—Arguments—Question for jury) and 1981 c 138 s 6;

(4) RCW 10.95.070 (Special sentencing proceeding—Factors which jury may consider in deciding whether leniency merited) and 2010 c 94 s 4, 1993 c 479 s 2, & 1981 c 138 s 7;

(5) RCW 10.95.080 (When sentence to death or sentence to life imprisonment shall be imposed) and 1981 c 138 s 8;

(6) RCW 10.95.090 (Sentence if death sentence commuted, held invalid, or if death sentence established by chapter held invalid) and 1981 c 138 s 9;

(7) RCW 10.95.100 (Mandatory review of death sentence by supreme court—Notice—Transmittal—Contents of notice—Jurisdiction) and 1981 c 138 s 10;

(8) RCW 10.95.110 (Verbatim report of trial proceedings—Preparation—Transmittal to supreme court—Clerk's papers—Receipt) and 1981 c 138 s 11;

(9) RCW 10.95.120 (Information report—Form—Contents—Submission to supreme court, defendant, prosecuting attorney) and 1981 c 138 s 12;

(10) RCW 10.95.130 (Questions posed for determination by supreme court in death sentence review—Review in addition to appeal—Consolidation of review and appeal) and 2010 c 94 s 5, 1993 c 479 s 3, & 1981 c 138 s 13;

(11) RCW 10.95.140 (Invalidation of sentence, remand for resentencing—Affirmation of sentence, remand for execution) and 1993 c 479 s 4 & 1981 c 138 s 14;

(12) RCW 10.95.150 (Time limit for appellate review of death sentence and filing opinion) and 1988 c 202 s 17 & 1981 c 138 s 15;

(13) RCW 10.95.160 (Death warrant—Issuance—Form—Time for execution of judgment and sentence) and 1990 c 263 s 1 & 1981 c 138 s 16;

(14) RCW 10.95.170 (Imprisonment of defendant) and 1983 c 255 s 1 & 1981 c 138 s 17;

(15) RCW 10.95.180 (Death penalty—How executed) and 1996 c 251 s 1, 1986 c 194 s 1, & 1981 c 138 s 18;

(16) RCW 10.95.185 (Witnesses) and 1999 c 332 s 1 & 1993 c 463 s 2;

(17) RCW 10.95.190 (Death warrant—Record—Return to trial court) and 1981 c 138 s 19;

(18) RCW 10.95.200 (Proceedings for failure to execute on day named) and 1990 c 263 s 2, 1987 c 286 s 1, & 1981 c 138 s 20; and

(19) RCW 10.95.901 (Construction—Chapter applicable to state registered domestic partnerships—2009 c 521) and 2009 c 521 s 28.

Sec. 22. RCW 10.95.035 and 2015 c 134 s 7 are each amended to read as follows:

(1) A person, who was sentenced prior to June 1, 2014, under this chapter or any prior law, to a term of life without the possibility of parole for an offense committed prior to their eighteenth birthday, shall be returned to the sentencing court or the sentencing court's successor for sentencing consistent with RCW 10.95.030. Release and supervision of a person who receives a minimum term of less than life will be governed by RCW 10.95.030.

(2) The court shall provide an opportunity for victims and survivors of victims of any crimes for which the offender has been convicted to present a statement personally or by representation.

(3) ((~~The court's order setting a minimum term is subject to review to the same extent as a minimum term decision by the parole board before July 1, 1986.~~

~~(4)~~)) A resentencing under this section shall not reopen the defendant's conviction to challenges that would otherwise be barred by RCW 10.73.090, 10.73.100, 10.73.140, or other procedural barriers.

Sec. 23. RCW 10.95.030 and 2015 c 134 s 5 are each amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, any person convicted of the crime of aggravated first degree murder shall be sentenced to life imprisonment without possibility of release or parole. A person sentenced to life imprisonment under this section shall not have that sentence suspended, deferred, or commuted by any judicial officer and the indeterminate sentence review board or its successor may not parole such prisoner nor reduce the period of confinement in any manner whatsoever including but not limited to any sort of good-time calculation. The department of social and health services or its successor or any executive official may not permit such prisoner to participate in any sort of release or furlough program.

(2) If, pursuant to a special sentencing proceeding held under RCW 10.95.050, the trier of fact finds that there are not sufficient mitigating circumstances to merit leniency, the sentence shall be death. In no case, however, shall a person be sentenced to death if the person had an intellectual disability at the time the crime was committed, under the definition of intellectual disability set forth in (a) of this subsection. A diagnosis of intellectual disability shall be documented by a licensed psychiatrist or licensed psychologist designated by the court, who is an expert in the diagnosis and evaluation of intellectual disabilities. The defense must establish an intellectual disability by a preponderance of the evidence and the court must make a finding as to the existence of an intellectual disability.

(a) "Intellectual disability" means the individual has: (i) Significantly subaverage general intellectual functioning; (ii) existing concurrently with deficits in adaptive behavior; and (iii) both significantly subaverage general intellectual functioning and deficits in adaptive behavior were manifested during the developmental period.

(b) "General intellectual functioning" means the results obtained by assessment with one or more of the individually administered general intelligence tests developed for the purpose of assessing intellectual functioning.

(c) "Significantly subaverage general intellectual functioning" means intelligence quotient seventy or below.

(d) "Adaptive behavior" means the effectiveness or degree with which individuals meet the standards of personal independence and social responsibility expected for his or her age.

(e) "Developmental period" means the period of time between conception and the eighteenth birthday.

(3)(a)(i) Any person convicted of the crime of aggravated first degree murder for an offense committed prior to the person's sixteenth birthday shall be sentenced to a maximum term of life imprisonment and a minimum term of total confinement of twenty-five years.

(ii) Any person convicted of the crime of aggravated first degree murder for an offense committed when the person is at least sixteen years old but less than eighteen years old shall be sentenced to a maximum term of life imprisonment and a minimum term of total confinement of no less than twenty-five years. ((~~A minimum term of life may be imposed, in which case the person will be ineligible for parole or early release.~~))

(b) In setting a minimum term, the court must take into account mitigating factors that account for the diminished culpability of youth as provided in *Miller v. Alabama*, 132 S.Ct. 2455 (2012) including, but not limited to, the age of the individual, the youth's childhood and life experience, the degree of responsibility the youth was capable of exercising, and the youth's chances of becoming rehabilitated.

(c) A person sentenced under this subsection shall serve the sentence in a facility or institution operated, or utilized under contract, by the state. During the minimum term of total confinement, the person shall not be eligible for community custody, earned release time, furlough, home detention, partial confinement, work crew, work release, or any other form of early release authorized under RCW 9.94A.728, or any other form of authorized leave or absence from the correctional facility while not in the direct custody of a corrections officer. The provisions of this subsection shall not apply: (i) In the case of an offender in need of emergency medical treatment; or (ii) for an extraordinary medical placement when authorized under RCW 9.94A.728(((~~(3)~~))) (1)(c).

(d) Any person sentenced pursuant to this subsection shall be subject to community custody under the supervision of the department of corrections and the authority of the indeterminate sentence review board. As part of any sentence under this subsection, the court shall require the person to comply with any conditions imposed by the board.

(e) No later than five years prior to the expiration of the person's minimum term, the department of corrections shall conduct an assessment of the offender and identify programming and services that would be appropriate to prepare the offender for return to the community. To the extent possible, the department shall make programming available as identified by the assessment.

(f) No later than one hundred eighty days prior to the expiration of the person's minimum term, the department of corrections shall conduct, and the offender shall participate in, an examination of the person, incorporating methodologies that are recognized by experts in the prediction of dangerousness, and including a prediction of the probability that the person will engage in future

criminal behavior if released on conditions to be set by the board. The board may consider a person's failure to participate in an evaluation under this subsection in determining whether to release the person. The board shall order the person released, under such affirmative and other conditions as the board determines appropriate, unless the board determines by a preponderance of the evidence that, despite such conditions, it is more likely than not that the person will commit new criminal law violations if released. If the board does not order the person released, the board shall set a new minimum term not to exceed five additional years. The board shall give public safety considerations the highest priority when making all discretionary decisions regarding the ability for release and conditions of release.

(g) In a hearing conducted under (f) of this subsection, the board shall provide opportunities for victims and survivors of victims of any crimes for which the offender has been convicted to present statements as set forth in RCW 7.69.032. The procedures for victim and survivor of victim input shall be provided by rule. To facilitate victim and survivor of victim involvement, county prosecutor's offices shall ensure that any victim impact statements and known contact information for victims of record and survivors of victims are forwarded as part of the judgment and sentence.

(h) An offender released by the board is subject to the supervision of the department of corrections for a period of time to be determined by the board. The department shall monitor the offender's compliance with conditions of community custody imposed by the court or board and promptly report any violations to the board. Any violation of conditions of community custody established or modified by the board are subject to the provisions of RCW 9.95.425 through 9.95.440.

(i) An offender released or discharged under this section may be returned to the institution at the discretion of the board if the offender is found to have violated a condition of community custody. The offender is entitled to a hearing pursuant to RCW 9.95.435. The board shall set a new minimum term of incarceration not to exceed five years.

NEW SECTION. **Sec. 24.** RCW 18.108.190 (Inspection of premises by law enforcement personnel) and 1975 1st ex.s. c 280 s 20 are each repealed.

NEW SECTION. **Sec. 25.** RCW 35.13.165 (Termination of annexation proceedings in cities over four hundred thousand—Declarations of termination filed by property owners) and 1989 c 351 s 7 & 1981 c 332 s 2 are each repealed.

NEW SECTION. **Sec. 26.** The following acts or parts of acts are each repealed:

(1) RCW 36.105.010 (Purpose) and 1991 c 363 s 99;

(2) RCW 36.105.020 (Definitions) and 1991 c 363 s 100;

(3) RCW 36.105.030 (Minimum requirements) and 1991 c 363 s 101;

(4) RCW 36.105.040 (Creation) and 1991 c 363 s 102;

(5) RCW 36.105.050 (Election of initial community councilmembers) and 2015 c 53 s 68 & 1991 c 363 s 103;

(6) RCW 36.105.060 (Community councilmembers—Election—Terms) and 1991 c 363 s 104;

(7) RCW 36.105.070 (Responsibility of county legislative authority) and 1991 c 363 s 105;

(8) RCW 36.105.080 (Powers) and 1991 c 363 s 106;

(9) RCW 36.105.090 (Annexation) and 1991 c 363 s 107; and

(10) RCW 36.105.100 (Dissolution) and 1991 c 363 s 108.

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

(1) RCW 39.88.010 (Declaration) and 1982 1st ex.s. c 42 s 2;

(2) RCW 39.88.020 (Definitions) and 2011 c 336 s 815 & 1982 1st ex.s. c 42 s 3;

(3) RCW 39.88.030 (Authority—Limitations) and 1982 1st ex.s. c 42 s 4;

(4) RCW 39.88.040 (Procedure for adoption of public improvement) and 1982 1st ex.s. c 42 s 5;

(5) RCW 39.88.050 (Notice of public improvement) and 1982 1st ex.s. c 42 s 6;

(6) RCW 39.88.060 (Disagreements between taxing districts) and 1989 c 378 s 1 & 1982 1st ex.s. c 42 s 7;

(7) RCW 39.88.070 (Apportionment of taxes) and 1982 1st ex.s. c 42 s 8;

(8) RCW 39.88.080 (Application of tax allocation revenues) and 1982 1st ex.s. c 42 s 9;

(9) RCW 39.88.090 (General obligation bonds) and 1982 1st ex.s. c 42 s 10;

(10) RCW 39.88.100 (Tax allocation bonds) and 1982 1st ex.s. c 42 s 11;

(11) RCW 39.88.110 (Legal investments) and 1982 1st ex.s. c 42 s 13;

(12) RCW 39.88.120 (Notice to state) and 1982 1st ex.s. c 42 s 14;

(13) RCW 39.88.130 (Conclusive presumption of validity) and 1982 1st ex.s. c 42 s 15;

(14) RCW 39.88.900 (Supplemental nature of chapter) and 1982 1st ex.s. c 42 s 16;

(15) RCW 39.88.905 (Short title) and 1982 1st ex.s. c 42 s 1; and

(16) RCW 39.88.910 (Captions not part of law—1982 1st ex.s. c 42) and 1982 1st ex.s. c 42 s 17.

NEW SECTION. **Sec. 28.** RCW 41.20.110 (Withdrawal of pension—Grounds) and 2012 c 117 s 30, 1937 c 24 s 5, & 1909 c 39 s 10 are each repealed.

Sec. 29. RCW 41.56.0251 and 2016 c 241 s 137 are each amended to read as follows:

In addition to the entities listed in RCW 41.56.020, this chapter applies to any charter school established under chapter 28A.710 RCW. ((~~Any bargaining unit or units established at the charter school must be limited to employees working in the charter school and must be separate from other bargaining units in school districts, educational service districts, or institutions of higher education.~~)) Any charter school established under chapter 28A.710 RCW is a separate employer from any school district, including the school district in which it is located.

Sec. 30. RCW 43.135.034 and 2020 c 218 s 4 are each amended to read as follows:

(1)(((~~(a) Any action or combination of actions by the legislature that raises taxes may be taken only if approved by a two-thirds vote in both the house of representatives and the senate. Pursuant to the referendum power set forth in Article II, section 1(b) of the state Constitution, tax increases may be referred to the voters for their approval or rejection at an election.~~

~~(b)~~))) For the purposes of this chapter, "raises taxes" means any action or combination of actions by the state legislature that increases state tax revenue deposited in any fund, budget, or account, regardless of whether the revenues are deposited into the general fund.

(2) The state or any political subdivision of the state may not impose any tax on intangible property listed in RCW 84.36.070 as that statute exists on January 1, 1993.

NEW SECTION. **Sec. 31.** RCW 47.44.030 (Removal of facilities—Notice—Reimbursement, when) and 1984 c 7 s 234 & 1961 c 13 s 47.44.030 are each repealed.

NEW SECTION. **Sec. 32.** The following acts or parts of acts are each repealed:

(1) RCW 49.32.072 (Injunctions—Hearings and findings—Temporary orders—Security) and 2012 c 117 s 130 & 1933 ex.s. c 7 s 7;

(2) RCW 49.32.073 (Injunctions—Complaints, conditions precedent) and 1933 ex.s. c 7 s 8; and

(3) RCW 49.32.074 (Injunctions—Findings and order essential) and 1933 ex.s. c 7 s 9.

NEW SECTION. **Sec. 33.** RCW 66.24.480 (Bottle clubs—License required) and 2012 c 117 s 281 & 1951 c 120 s 2 (adding a new section to Title 66 RCW) are each repealed.

NEW SECTION. **Sec. 34.** RCW 66.28.080 (Permit for music and dancing upon licensed premises) and 1969 ex.s. c 178 s 8, 1949 c 5 s 7, & 1937 c 217 s 3 (adding new section 27-A to 1933 ex.s. c 62) are each repealed.

Sec. 35. RCW 35A.66.020 and 1967 ex.s. c 119 s 35A.66.020 are each amended to read as follows:

The qualified electors of any code city may petition for an election upon the question of whether the sale of liquor shall be permitted within the boundaries of such city as provided by chapter 66.40 RCW, and shall be governed by the procedure therein((~~, and may regulate music, dancing and entertainment as authorized by RCW 66.28.080~~)): PROVIDED, That every code city shall enforce state laws relating to the investigation and prosecution of all violations of Title 66 RCW relating to control of alcoholic beverages and shall be entitled to retain the fines collected therefrom as therein provided. Every code city shall also share in the allocation and distribution of liquor profits and excise as provided in RCW 82.08.170, 66.08.190, and 66.08.210, and make reports of seizure as required by RCW 66.32.090, and otherwise regulate by ordinances not in conflict with state law or liquor and cannabis board regulations.

NEW SECTION. **Sec. 36.** The following acts or parts of acts are each repealed:

(1) RCW 73.04.050 (Right to peddle, vend, sell goods without license—License fee on business established under act of congress prohibited) and 2012 c 117 s 504, 1945 c 144 s 9, & 1903 c 69 s 1; and

(2) RCW 73.04.060 (Right to peddle, vend, sell goods without license—Issuance of license) and 2012 c 117 s 505, 1945 c 144 s 10, & 1903 c 69 s 2.

NEW SECTION. **Sec. 37.** RCW 85.05.130 (Assessment of benefited lands formerly omitted—Procedure—Appeals) and 2013 c 23 s 385, 1971 c 81 s 157, 1913 c 89 s 1, 1901 c 111 s 1, & 1895 c 117 s 13 are each repealed.

Sec. 38. RCW 9A.72.160 and 1985 c 327 s 1 are each amended to read as follows:

(1) A person is guilty of intimidating a judge if a person directs a threat to a judge because of a ruling or decision of the judge in any official proceeding, or if by use of a threat directed to a judge, a person attempts to influence a ruling or decision of the judge in any official proceeding.

(2) "Threat" as used in this section means:

(a) To communicate, directly or indirectly, the intent immediately to use force against any person who is present at the time; or

(b) Threats as defined in RCW 9A.04.110((~~(25)~~)) (28).

(3) Intimidating a judge is a class B felony.

Passed by the Senate February 1, 2023.
Passed by the House April 7, 2023.
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Filed in Office of Secretary of State April 21, 2023.

CHAPTER 103

[Engrossed Substitute House Bill 1051]
TELEPHONE SOLICITATION—VARIOUS PROVISIONS

AN ACT Relating to robocalling and telephone scams; amending RCW 80.36.400, 80.36.390, and 19.158.020; creating a new section; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature finds that robocalls are increasingly used by entities to mislead and deceive Washington residents and induce them into providing personal information to wrongfully obtain something of value. It is the intent of the legislature to expand the scope of existing provisions in RCW 80.36.390, 80.36.400, and 19.158.020 regulating robocalls and telephone solicitations to prohibit abusive telephone communications that mislead or harm Washington residents.

(2) The legislature further finds that the most effective way to prevent illegal robocalling is to ensure that those calls never originate or enter the telephone network. Therefore, it is further the intent of the legislature to extend liability to those persons who provide substantial assistance or support in the origination and transmission of robocalls that violate RCW 80.36.400.

(3) It is also the intent of the legislature to:

(a) Include a provision in RCW 80.36.390 to prohibit the initiation of unwanted telephone calls to Washington telephone numbers on the do not call registry maintained by the federal government pursuant to the telemarketing sales rule, 16 C.F.R. Part 310, and related regulations; and

(b) Combat fraudulent or misleading caller identification.

Sec. 2. RCW 80.36.400 and 1986 c 281 s 2 are each amended to read as follows:

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

(a) ((~~An automatic~~)) "Automatic dialing and announcing device" is a ((~~device~~)) system which automatically dials telephone numbers and ((~~plays~~)) transmits a recorded or artificial voice message once a connection is made. A recorded or artificial message is transmitted even if the recorded or artificial message goes directly to a recipient's voicemail.

(b) "Commercial solicitation" means the unsolicited initiation of a telephone ((~~conversation~~)) communication made for the purpose of encouraging a person to purchase property, goods, or services, or wrongfully obtaining anything of value.

(c)(i) "Assist in the transmission" means actions taken to provide substantial assistance or support, which enables any person to formulate, originate, initiate, or transmit a commercial solicitation when the person providing the assistance knows or consciously avoids knowing that the initiator of the commercial solicitation is engaged, or intends to engage, in any practice that violates chapter 19.86 RCW, the consumer protection act.

(ii) "Assist in the transmission" does not include any of the following:

(A) Activities of an entity relating to the design, manufacture, or distribution of any technology, product, or component that has a commercially significant use other than to violate or circumvent this section;

(B) Activities of a telecommunications provider or other entity that are limited to providing access to the internet for purposes excluding initiation of a telephone communication; or

(C) Activities of a terminating provider relating to the transmission of a telephone communication.

(d) "Terminating provider" means a telecommunications provider that provides voice services to an end user customer.

(2) No person may use an automatic dialing and announcing device for purposes of commercial solicitation. This section applies to all commercial solicitation intended to be received by telephone customers within the state.

(3) ((~~A violation of this section is a violation of chapter 19.86 RCW. It shall be presumed that damages to the recipient of commercial solicitations made using an automatic dialing and announcing device are five hundred dollars.~~

~~(4)~~)) No person may assist in the transmission of a commercial solicitation described in subsection (2) of this section. In any action arising out of a violation of this subsection, it shall be an affirmative defense that a telecommunications provider both:

(a) Acted in compliance with 47 U.S.C. Sec. 227, 16 C.F.R. Part 310, and related regulations; and

(b) Implemented a reasonably effective plan to mitigate origination, initiation, or transmission of a commercial solicitation described in subsection (2) of this section.

(4) The legislature finds that the practices covered by this section are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of this section is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW. In addition to all remedies available in chapter 19.86 RCW, a person who is injured under this section may bring a civil action in the superior

court to enjoin further violations and shall recover actual damages or $1,000 per violation of this section, whichever is greater.

(5) Nothing in this section shall be construed to prevent the Washington utilities and transportation commission from adopting additional rules regulating automatic dialing and announcing devices.

Sec. 3. RCW 80.36.390 and 2022 c 195 s 1 are each amended to read as follows:

(1)(a) As used in this section, "telephone solicitation" means the unsolicited initiation of a telephone call by a commercial or nonprofit company or organization to a person ((~~and conversation~~)) for the purpose of encouraging the person to purchase property, goods, or services, wrongfully obtaining anything of value, or soliciting donations of money, property, goods, or services.

(b) "Telephone solicitation" does not include:

(((~~(a)~~))) (i) Calls made in response to a request or inquiry by the called party. This includes calls regarding an item that has been purchased by the called party from the company or organization during a period not longer than ((~~twelve~~)) 12 months prior to the telephone contact;

(((~~(b)~~))) (ii) Calls made by a not-for-profit organization, as defined by 26 U.S.C. Sec. 501 of the federal internal revenue code, to its own list of bona fide or active members of the organization;

(((~~(c)~~))) (iii) Calls made by a membership or labor organization to its own list of bona fide or active members of the organization;

(iv) Calls limited to polling or soliciting the expression of ideas, opinions, or votes; or

(((~~(d)~~))) (v) Business-to-business contacts.

(c) "Telephone call" means any communication made through a telephone that uses a live person, artificial voice, or recorded message.

(2)(a) For purposes of this section, each individual real estate agent or insurance agent who maintains a separate list from other individual real estate or insurance agents shall be treated as a company or organization.

(b) For purposes of this section, an organization as defined in RCW 29A.04.086 or 29A.04.097 and organized pursuant to chapter 29A.80 RCW shall not be considered a commercial or nonprofit company or organization.

(((~~(2)~~))) (3) A person making a telephone solicitation must identify him or herself and the company or organization on whose behalf the solicitation is being made and the purpose of the call within the first 30 seconds of the telephone call.

(((~~(3)~~))) (4) As used in this section, "telephone solicitor" means a commercial or nonprofit company or organization engaged in telephone solicitation.

(((~~(4)~~))) (5) If the telephone solicitor is requesting a donation or gift of money, the telephone solicitor must ask the called party whether they want to continue the call, end the call, or be removed from the solicitor's telephone lists.

(((~~(5)~~))) (6) If, at any time during the telephone contact, the called party states or indicates they want to end the call, the telephone solicitor must end the call within 10 seconds.

(((~~(6)~~))) (7) If, at any time during the telephone contact, the called party states or indicates that he or she does not want to be called again by the telephone solicitor or wants to have his or her name, individual telephone number, or other contact information removed from the telephone lists used by the telephone solicitor:

(a) The telephone solicitor shall inform the called party that his or her contact information will be removed from the telephone solicitor's telephone lists for at least one year;

(b) The telephone solicitor shall end the call within 10 seconds;

(c) The telephone solicitor shall not make any additional telephone solicitation of the called party at any telephone number ((~~associated with that party within~~)) that the called party has requested be removed from the solicitor's telephone lists for a period of at least one year; and

(d) The telephone solicitor shall not sell or give the called party's name, telephone number, and other contact information to another company or organization: PROVIDED, That the telephone solicitor may return the list, including the called party's name, telephone number, and other contact information to the company or organization from which it received the list.

(((~~(7)~~))) (8) A telephone solicitor shall not place calls to any person which will be received before 8:00 a.m. or after 8:00 p.m. at the call recipient's local time.

(((~~(8)~~))) (9) No person may initiate, or cause to be initiated, a telephone solicitation to a telephone number registered on the do not call registry maintained by the federal government pursuant to telephone consumer protection act, 47 U.S.C. Sec. 227 and related regulations, as currently enacted or subsequently amended. This subsection applies to all telephone solicitation intended to be received by telephone customers within the state.

(10) It is unlawful for a person to initiate, or cause to be initiated, a telephone solicitation that violates 47 U.S.C. Sec. 227(e)(1), as currently written or as subsequently amended or interpreted by the federal government. This subsection applies to all telephone solicitation intended to be received by telephone customers within the state.

(11) A violation of subsection ((~~(2),~~)) (3), (4), (5), (6), ((~~or~~)) (7), (8), (9), or (10) of this section is punishable by a fine of up to ((~~one thousand dollars~~)) $1,000 for each violation.

(((~~(9)~~))) (12) The attorney general may bring actions to enforce compliance with this section. ((~~For the first violation by any telephone solicitor of this section, the attorney general shall notify the telephone solicitor with a letter of warning that the section has been violated.~~)) The legislature finds that the practices covered by this section are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of this section is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.

(((~~(10)~~))) (13) A person aggrieved by repeated violations of this section may bring a civil action in superior court to enjoin future violations, to recover damages, or both. The court shall award damages of at least ((~~one hundred dollars~~)) $1,000 for each individual violation of this section. If the aggrieved person prevails in a civil action under this subsection, the court shall award the aggrieved person reasonable attorneys' fees and cost of the suit.

(((~~(11)~~))) (14) The utilities and transportation commission shall by rule ensure that telecommunications companies inform their residential customers of the provisions of this section. The notification may be made by (a) annual ((~~inserts~~))

notice in the billing statements ((~~mailed~~)) sent to residential customers, or (b) conspicuous publication of the notice in the consumer information pages of local telephone directories.

Sec. 4. RCW 19.158.020 and 2003 c 39 s 12 are each amended to read as follows:

((~~Unless the context requires otherwise, the~~)) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) A "commercial telephone solicitor" is any person who engages in commercial telephone solicitation, including service bureaus.

(2) "Commercial telephone solicitation" means:

(a) An unsolicited telephone call ((~~to a person initiated by a salesperson and conversation for the purpose of inducing the person to purchase or invest in property, goods, or services~~)), initiated by one other than a person described under subsection (3)(a) through (k) of this section, for the purpose of encouraging a person to purchase or invest in property, goods, or services, or wrongfully obtaining anything of value;

(b) Other communication with a person where:

(i) A free gift, award, or prize is offered to a purchaser who has not previously purchased from the person initiating the communication; and

(ii) A telephone call response is invited; and

(iii) The ((~~salesperson~~)) caller intends to complete a sale or enter into an agreement to purchase during the course of the telephone call;

(c) Other communication with a person which misrepresents the price, quality, or availability of property, goods, or services and which invites a response by telephone or which is followed by a call to the person ((~~by a salesperson~~));

(d) For purposes of this section, "other communication" means a written or oral notification or advertisement transmitted through any means.

(3) A "commercial telephone solicitor" does not include any of the following:

(a) A person engaging in commercial telephone solicitation where((~~:~~

~~(i) The~~)) the solicitation is an isolated transaction and not done in the course of a pattern of repeated transactions of like nature; ((~~or~~

~~(ii) Less than sixty percent of such person's prior year's sales were made as a result of a commercial telephone solicitation as defined in this chapter. Where more than sixty percent of a seller's prior year's sales were made as a result of commercial telephone solicitations, the service bureau contracting to provide commercial telephone solicitation services to the seller shall be deemed a commercial telephone solicitor;~~))

(b) A person making calls for religious, charitable, political, or other noncommercial purposes;

(c) A person soliciting business solely from purchasers who have previously purchased from the business enterprise for which the person is calling;

(d) A person soliciting:

(i) Without the intent to complete or obtain provisional acceptance of a sale during the telephone solicitation; and

(ii) Who does not make the major sales presentation during the telephone solicitation; and

(iii) Who only makes the major sales presentation or arranges for the major sales presentation to be made at a later face-to-face meeting between the salesperson and the purchaser;

(e) A person selling a security which is exempt from registration under RCW 21.20.310;

(f) A person licensed under RCW ((~~18.85.090~~)) 18.85.101 when the solicited transaction is governed by that law;

(g) A person registered under RCW 18.27.060 when the solicited transaction is governed by that law;

(h) A person licensed under chapter 48.17 RCW ((~~48.17.150~~)) when the solicited transaction is governed by that law;

(i) Any person soliciting the sale of a franchise who is registered under RCW 19.100.140;

(j) A person primarily soliciting the sale of a newspaper of general circulation, a magazine or periodical, or contractual plans, including book or record clubs: (i) Under which the seller provides the consumer with a form which the consumer may use to instruct the seller not to ship the offered merchandise; and (ii) which is regulated by the federal trade commission trade regulation concerning "use of negative option plans by sellers in commerce";

(k) Any supervised financial institution or parent, subsidiary, or affiliate thereof. As used in this section, "supervised financial institution" means any commercial bank, trust company, savings and loan association, mutual savings banks, credit union, industrial loan company, personal property broker, consumer finance lender, commercial finance lender, or insurer, provided that the institution is subject to supervision by an official or agency of this state or the United States;

(l) A person soliciting the sale of a prearrangement funeral service contract registered under RCW 18.39.240 and 18.39.260;

(m) A person licensed to enter into prearrangement contracts under RCW 68.05.155 when acting subject to that license;

(n) A person soliciting the sale of services provided by a cable television system operating under authority of a franchise or permit;

(o) A person or affiliate of a person whose business is regulated by the utilities and transportation commission or the federal communications commission;

(p) A person soliciting the sale of agricultural products, as defined in RCW 20.01.010 where the purchaser is a business;

(q) An issuer or subsidiary of an issuer that has a class of securities that is subject to section 12 of the securities exchange act of 1934 (15 U.S.C. Sec. ((~~781~~)) 78l) and that is either registered or exempt from registration under paragraph (A), (B), (C), (E), (F), (G), or (H) of subsection (g) of that section;

(r) A commodity broker-dealer as defined in RCW 21.30.010 and registered with the commodity futures trading commission;

(s) A business-to-business sale where:

(i) The purchaser business intends to resell the property or goods purchased, or

(ii) The purchaser business intends to use the property or goods purchased in a recycling, reuse, remanufacturing or manufacturing process;

(t) A person licensed under RCW 19.16.110 when the solicited transaction is governed by that law;

(u) A person soliciting the sale of food intended for immediate delivery to and immediate consumption by the purchaser;

(v) A person soliciting the sale of food fish or shellfish when that person is licensed pursuant to the provisions of Title 77 RCW.

(4) "Purchaser" means a person who is solicited to become or does become obligated to a commercial telephone solicitor.

(5) "Salesperson" means any individual employed, appointed, or authorized by a commercial telephone solicitor, whether referred to by the commercial telephone solicitor as an agent, representative, or independent contractor, who attempts to solicit or solicits a sale on behalf of the commercial telephone solicitor.

(6) "Service bureau" means a commercial telephone solicitor who contracts with any person to provide commercial telephone solicitation services.

(7) "Seller" means any person who contracts with any service bureau to purchase commercial telephone solicitation services.

(8) "Person" includes any individual, firm, association, corporation, partnership, joint venture, sole proprietorship, or any other business entity.

(9) "Free gift, award, or prize" means a gratuity which the purchaser believes of a value equal to or greater than the value of the specific product, good, or service sought to be sold to the purchaser by the seller.

(10) ((~~"Solicit"~~)) "Telephone call" includes any communication made through a telephone that uses a live person, artificial voice, or recorded message.

(11) "Unsolicited" means to initiate contact ((~~with a purchaser~~)) for the purpose of attempting to sell a person property, goods, or services, where such ((~~purchaser has expressed~~)) person provided no previous express interest in purchasing, investing in, or obtaining information regarding the property, goods, or services attempted to be sold.

NEW SECTION. **Sec. 5.** 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.

Passed by the House February 27, 2023.
Passed by the Senate April 5, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 104

[Substitute House Bill 1177]

MISSING AND MURDERED INDIGENOUS WOMEN AND PEOPLE COLD CASE INVESTIGATIONS ASSISTANCE UNIT

AN ACT Relating to a missing and murdered indigenous women and people cold case investigations unit; adding a new section to chapter 43.10 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** FINDINGS. The legislature finds that:

(1) American Indian and Alaska Native women experience violence at much higher rates than the national average. A recent federal study reported that

Native American women are murdered at rates greater than 10 times the national average. Many of these crimes, however, are often unsolved or even unreported because there are also very high rates of disappearance for Native American women;

(2) The national center for disease control reports that homicide is the sixth-leading cause of death for indigenous women and girls and the third-leading cause of death for indigenous men;

(3) The legislature established the Washington state missing and murdered indigenous women and people task force in the attorney general's office to address the crisis, and in 2022 the task force unanimously recommended the legislature establish and fully fund a cold case investigations unit in the attorney general's office that can offer assistance to law enforcement agencies with jurisdiction over unsolved cold cases involving missing and murdered indigenous women and people;

(4) Cold cases vary in scope, but may include unsolved homicides, sexual offenses, sexually motivated offenses, missing persons, and cases of unidentified remains;

(5) Cold cases may include cases in which the investigating agency is not actively working the case and has suspended the investigation;

(6) Most law enforcement agencies in Washington state do not have dedicated cold case units, and can benefit from assistance;

(7) When cases go cold, family members of native and indigenous women and girls often continue to search for their loved one using their own resources;

(8) The attorney general's office and Washington state patrol have dedicated significant time and resources towards working with families of missing and murdered indigenous women and people to build trust and engagement;

(9) The homicide investigation tracking system (HITS) program within the attorney general's office tracks and investigates homicides and rapes. HITS partners with Washington law enforcement agencies to collect, analyze, link, and then provide law enforcement with information that will facilitate the resolution of violent crimes and speed the apprehension and prosecution of violent criminals. Typically, in every calendar year, HITS will respond to almost 800 requests for assistance or information. The investigators who work in HITS also provide expertise to the local and national jurisdictions on homicide and rape investigations;

(10) A missing and murdered indigenous women and people cold case unit should use a culturally attuned, trauma-informed, and family and victim-centered approach in assisting local law enforcement agencies; and

(11) A missing and murdered indigenous women and people cold case investigation unit will expand resources available to law enforcement, coroners, and other agencies.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.10 RCW to read as follows:

CREATION.

(1) Subject to the availability of amounts appropriated for this specific purpose, there is hereby created a missing and murdered indigenous women and people cold case investigations assistance unit within the office of the attorney general for the purpose of assisting federal, municipal, county, and tribal law

enforcement agencies to solve cold cases involving missing and murdered indigenous women and people.

(2) The missing and murdered indigenous women and people cold case investigations assistance unit may proactively offer assistance to the law enforcement agency with primary jurisdiction over a missing or murdered indigenous women or person cold case. The missing and murdered indigenous women and people cold case investigations assistance unit shall not investigate or assist with a criminal investigation except at the request of the law enforcement agency with primary jurisdiction over the case, in which case the assistance shall be limited to the content of such request.

(3) The missing and murdered indigenous women and people cold case investigations assistance unit shall prioritize assistance to jurisdictions that do not have sufficient resources to investigate cold cases.

(4) The missing and murdered indigenous women and people cold case investigations assistance unit shall include an advocate or case navigator.

(5) Nothing in this section alters the attorney general's concurrent authority to investigate and prosecute crimes.

Passed by the House February 28, 2023.
Passed by the Senate April 8, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 105

[Engrossed Substitute House Bill 1329]

UTILITY SHUTOFFS—EXTREME HEAT

AN ACT Relating to preventing utility shutoffs for nonpayment during extreme heat; amending RCW 54.16.285, 57.08.081, 80.28.010, 87.03.015, 59.18.060, and 59.20.070; adding a new section to chapter 23.86 RCW; adding a new section to chapter 24.06 RCW; and adding a new section to chapter 35.21 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 23.86 RCW to read as follows:

(1) As used in this section, any locally regulated utility as defined in RCW 23.86.400 may not effect, due to lack of payment, an involuntary termination of electric utility service to any residential user, including tenants of metered apartment buildings and residents of mobile homes, on any day for which the national weather service has issued or has announced that it intends to issue a heat-related alert, such as an excessive heat warning, a heat advisory, an excessive heat watch, or a similar alert, for the area in which the residential user's address is located.

(2)(a) A residential user at whose dwelling electric utility service has been disconnected for lack of payment may request that the locally regulated utility reconnect service on any day for which the national weather service has issued or has announced that it intends to issue a heat-related alert, such as an excessive heat warning, a heat advisory, an excessive heat watch, or a similar alert, for the area in which the residential user's address is located. The locally regulated utility shall inform all customers in the notice of disconnection of the ability to

seek reconnection and provide clear and specific information on how to make that request, including how to contact the utility.

(b) Upon receipt of a request made pursuant to (a) of this subsection, the locally regulated utility shall promptly make a reasonable attempt to reconnect service to the dwelling. The locally regulated utility, in connection with a request made pursuant to (a) of this subsection, may require the residential user to enter into a payment plan prior to reconnecting service to the dwelling. If the locally regulated utility requires the residential user to enter into a repayment plan, the repayment plan must comply with subsection (3) of this section.

(3) A repayment plan required by a locally regulated utility pursuant to subsection (2)(b) of this section will be designed both to pay the past due bill by the following May 15th, or as soon as possible after May 15th if needed to maintain monthly payments that are no greater than six percent of the customer's monthly income, and to pay for continued utility service. The plan may not require monthly payments in excess of six percent of the customer's monthly income. A customer may agree to pay a higher percentage during this period, but will not be in default unless payment during this period is less than six percent of the customer's monthly income. If assistance payments are received by the customer subsequent to implementation of the plan, the customer shall contact the locally regulated utility to reformulate the plan.

(4) On an annual basis, each locally regulated utility with more than 25,000 retail electric customers in Washington must submit a report to the department of commerce that includes the total number of disconnections that occurred on each day for which the national weather service issued, or announced that it intended to issue, a heat-related alert. Locally regulated utilities with fewer than 25,000 retail electric customers in Washington must provide similar information upon request by the department.

(a) Subject to availability, each locally regulated utility must provide any other information related to utility disconnections that is requested by the department.

(b) The information required in this subsection must be submitted in a form, timeline, and manner as prescribed by the department.

NEW SECTION. **Sec. 2.** A new section is added to chapter 24.06 RCW to read as follows:

(1) As used in this section, any locally regulated utility as defined in RCW 24.06.600 may not effect, due to lack of payment, an involuntary termination of electric utility service to any residential user, including tenants of metered apartment buildings and residents of mobile homes, on any day for which the national weather service has issued or has announced that it intends to issue a heat-related alert, such as an excessive heat warning, a heat advisory, an excessive heat watch, or a similar alert, for the area in which the residential user's address is located.

(2)(a) A residential user at whose dwelling electric utility service has been disconnected for lack of payment may request that the locally regulated utility reconnect service on any day for which the national weather service has issued or has announced that it intends to issue a heat-related alert, such as an excessive heat warning, a heat advisory, an excessive heat watch, or a similar alert, for the area in which the residential user's address is located. The locally regulated utility shall inform all customers in the notice of disconnection of the ability to

seek reconnection and provide clear and specific information on how to make that request, including how to contact the utility.

(b) Upon receipt of a request made pursuant to (a) of this subsection, the locally regulated utility shall promptly make a reasonable attempt to reconnect service to the dwelling. The locally regulated utility, in connection with a request made pursuant to (a) of this subsection, may require the residential user to enter into a payment plan prior to reconnecting service to the dwelling. If the locally regulated utility requires the residential user to enter into a repayment plan, the repayment plan must comply with subsection (3) of this section.

(3) A repayment plan required by a locally regulated utility pursuant to subsection (2)(b) of this section will be designed both to pay the past due bill by the following May 15th, or as soon as possible after May 15th if needed to maintain monthly payments that are no greater than six percent of the customer's monthly income, and to pay for continued utility service. The plan must not require monthly payments in excess of six percent of the customer's monthly income. A customer may agree to pay a higher percentage during this period, but will not be in default unless payment during this period is less than six percent of the customer's monthly income. If assistance payments are received by the customer subsequent to implementation of the plan, the customer shall contact the locally regulated utility to reformulate the plan.

(4) On an annual basis, each locally regulated utility with more than 25,000 retail electric customers in Washington must submit a report to the department of commerce that includes the total number of disconnections that occurred on each day for which the national weather service issued, or announced that it intended to issue, a heat-related alert. Locally regulated utilities with fewer than 25,000 retail electric customers in Washington must provide similar information upon request by the department.

(a) Subject to availability, each locally regulated utility must provide any other information related to utility disconnections that is requested by the department.

(b) The information required in this subsection must be submitted in a form, timeline, and manner as prescribed by the department.

NEW SECTION. **Sec. 3.** A new section is added to chapter 35.21 RCW to read as follows:

(1) A city or town, including a code city, that owns or operates an electric or water utility may not effect, due to lack of payment, an involuntary termination of utility service to any residential user, including tenants of metered apartment buildings and residents of mobile homes, on any day for which the national weather service has issued or has announced that it intends to issue a heat-related alert, such as an excessive heat warning, a heat advisory, an excessive heat watch, or a similar alert, for the area in which the residential user's address is located.

(2)(a) A residential user at whose dwelling utility service has been disconnected for lack of payment may request that the utility reconnect service on any day for which the national weather service has issued or has announced that it intends to issue a heat-related alert, such as an excessive heat warning, a heat advisory, an excessive heat watch, or a similar alert, for the area in which the residential user's address is located. The utility shall inform all customers in the notice of disconnection of the ability to seek reconnection and provide clear

and specific information on how to make that request, including how to contact the utility.

(b) Upon receipt of a request made pursuant to (a) of this subsection, the utility shall promptly make a reasonable attempt to reconnect service to the dwelling. The utility, in connection with a request made pursuant to (a) of this subsection, may require the residential user to enter into a payment plan prior to reconnecting service to the dwelling. If the utility requires the residential user to enter into a repayment plan, the repayment plan must comply with subsection (3) of this section.

(3) A repayment plan required by a utility pursuant to subsection (2)(b) of this section will be designed both to pay the past due bill by the following May 15th, or as soon as possible after May 15th if needed to maintain monthly payments that are no greater than six percent of the customer's monthly income, and to pay for continued utility service. The plan may not require monthly payments in excess of six percent of the customer's monthly income. A customer may agree to pay a higher percentage during this period, but will not be in default unless payment during this period is less than six percent of the customer's monthly income. If assistance payments are received by the customer subsequent to implementation of the plan, the customer shall contact the utility to reformulate the plan.

(4) On an annual basis, each city or town, including a code city, that owns or operates an electric or water utility with more than 25,000 retail electric customers or 2,500 water customers in Washington must submit a report to the department of commerce that includes the total number of disconnections that occurred on each day for which the national weather service issued, or announced that it intended to issue, a heat-related alert. Utilities with fewer than 25,000 retail electric customers or 2,500 water customers in Washington must provide similar information upon request by the department.

(a) Subject to availability, each utility must provide any other information related to utility disconnections that is requested by the department.

(b) The information required in this subsection must be submitted in a form, timeline, and manner as prescribed by the department.

Sec. 4. RCW 54.16.285 and 1995 c 399 s 144 are each amended to read as follows:

(1) A district providing utility service for residential space heating shall not terminate such utility service between November 15 through March 15 if the customer:

(a) Notifies the utility of the inability to pay the bill((~~, including a security deposit~~)). This notice should be provided within five business days of receiving a payment overdue notice unless there are extenuating circumstances. If the customer fails to notify the utility within five business days and service is terminated, the customer can, by ((~~paying reconnection charges, if any, and~~)) fulfilling the requirements of this section, receive the protections of this chapter;

(b) Provides self-certification of household income for the prior ((~~twelve~~)) 12 months to a grantee of the department of ((~~community, trade, and economic development~~)) commerce which administers federally funded energy assistance programs. The grantee shall determine that the household income does not exceed the maximum allowed for eligibility under the state's plan for low-income energy assistance under 42 U.S.C. 8624 and shall provide a dollar figure

that is seven percent of household income. The grantee may verify information provided in the self-certification;

(c) Has applied for home heating assistance from applicable government and private sector organizations and certifies that any assistance received will be applied to the current bill and future utility bills;

(d) Has applied for low-income weatherization assistance to the utility or other appropriate agency if such assistance is available for the dwelling;

(e) Agrees to a payment plan and agrees to maintain the payment plan. The plan will be designed both to pay the past due bill by the following October 15 and to pay for continued utility service. If the past due bill is not paid by the following October 15, the customer shall not be eligible for protections under this chapter until the past due bill is paid. The plan shall not require monthly payments in excess of seven percent of the customer's monthly income plus one-twelfth of any arrearage accrued from the date application is made and thereafter during November 15 through March 15. A customer may agree to pay a higher percentage during this period, but shall not be in default unless payment during this period is less than seven percent of monthly income plus one-twelfth of any arrearage accrued from the date application is made and thereafter. If assistance payments are received by the customer subsequent to implementation of the plan, the customer shall contact the utility to reformulate the plan; and

(f) Agrees to pay the moneys owed even if ((~~he or she moves.~~

~~(2)~~)) the customer moves.

(2) The utility shall:

(a) Include in any notice that an account is delinquent and that service may be subject to termination, a description of the customer's duties in this section;

(b) Assist the customer in fulfilling the requirements under this section;

(c) Be authorized to transfer an account to a new residence when a customer who has established a plan under this section moves from one residence to another within the same utility service area;

(d) Be permitted to disconnect service if the customer fails to honor the payment program except on the days indicated in subsection (5) of this section. Utilities may continue to disconnect service for those practices authorized by law other than for nonpayment as provided for in this section. Customers who qualify for payment plans under this section who default on their payment plans and are disconnected can be reconnected and maintain the protections afforded under this chapter by paying ((~~reconnection charges, if any, and by paying~~)) all amounts that would have been due and owing under the terms of the applicable payment plan, absent default, on the date on which service is reconnected; and

(e) Advise the customer in writing at the time it disconnects service that it will restore service if the customer contacts the utility and fulfills the other requirements of this section.

(3) All districts providing utility service for residential space heating shall offer residential customers the option of a budget billing or equal payment plan. The budget billing or equal payment plan shall be offered low-income customers eligible under the state's plan for low-income energy assistance prepared in accordance with 42 U.S.C. 8624(C)(1) without limiting availability to certain months of the year, without regard to the length of time the customer has occupied the premises, and without regard to whether the customer is the tenant or owner of the premises occupied.

(4) An agreement between the customer and the utility, whether oral or written, shall not waive the protections afforded under this chapter.

(5) A district providing electric or water utility service to residential customers may not effect, due to lack of payment, an involuntary termination of utility service to any residential user, including tenants of metered apartment buildings and residents of mobile homes, on any day for which the national weather service has issued or has announced that it intends to issue a heat-related alert, such as an excessive heat warning, a heat advisory, an excessive heat watch, or a similar alert, for the area in which the residential user's address is located.

(6)(a) A residential user at whose dwelling utility service has been disconnected for lack of payment may request that the district reconnect service on any day for which the national weather service has issued or has announced that it intends to issue a heat-related alert, such as an excessive heat warning, a heat advisory, an excessive heat watch, or a similar alert, for the area in which the residential user's address is located. The district shall inform all customers in the notice of disconnection of the ability to seek reconnection and provide clear and specific information on how to make that request, including how to contact the district.

(b) Upon receipt of a request made pursuant to (a) of this subsection, the district shall promptly make a reasonable attempt to reconnect service to the dwelling. The district, in connection with a request made pursuant to (a) of this subsection, may require the residential user to enter into a payment plan prior to reconnecting service to the dwelling. If the district requires the residential user to enter into a repayment plan, the repayment plan must comply with subsection (7) of this section.

(7) A repayment plan required by a district pursuant to subsection (6)(b) of this section will be designed both to pay the past due bill by the following May 15th, or as soon as possible after May 15th if needed to maintain monthly payments that are no greater than six percent of the customer's monthly income, and to pay for continued utility service. The plan may not require monthly payments in excess of six percent of the customer's monthly income. A customer may agree to pay a higher percentage during this period, but will not be in default unless payment during this period is less than six percent of the customer's monthly income. If assistance payments are received by the customer subsequent to implementation of the plan, the customer shall contact the district to reformulate the plan.

(8) On an annual basis, each district with more than 25,000 retail electric customers or 2,500 water customers in Washington must submit a report to the department of commerce that includes the total number of disconnections that occurred on each day for which the national weather service issued, or announced that it intended to issue, a heat-related alert. Districts with fewer than 25,000 retail electric customers or 2,500 water customers in Washington must provide similar information upon request by the department.

(a) Subject to availability, each district must provide any other information related to utility disconnections that is requested by the department.

(b) The information required in this subsection must be submitted in a form, timeline, and manner as prescribed by the department.

Sec. 5. RCW 57.08.081 and 2003 c 394 s 6 are each amended to read as follows:

(1) Subject to RCW 57.08.005((~~(6)~~)) (7), the commissioners of any district shall provide for revenues by fixing rates and charges for furnishing sewer and drainage service and facilities to those to whom service is available or for providing water, such rates and charges to be fixed as deemed necessary by the commissioners, so that uniform charges will be made for the same class of customer or service and facility. Rates and charges may be combined for the furnishing of more than one type of sewer or drainage service and facilities.

(2) In classifying customers of such water, sewer, or drainage system, the board of commissioners may in its discretion consider any or all of the following factors: The difference in cost to various customers; the location of the various customers within and without the district; the difference in cost of maintenance, operation, repair, and replacement of the various parts of the system; the different character of the service furnished various customers; the quantity and quality of the service and facility furnished; the time of its use; the achievement of water conservation goals and the discouragement of wasteful practices; capital contributions made to the system including but not limited to assessments; and any other matters which present a reasonable difference as a ground for distinction. Rates shall be established as deemed proper by the commissioners and as fixed by resolution and shall produce revenues sufficient to take care of the costs of maintenance and operation, revenue bond and warrant interest and principal amortization requirements, and all other charges necessary for efficient and proper operation of the system. Prior to furnishing services, a district may require a deposit to guarantee payment for services. However, failure to require a deposit does not affect the validity of any lien authorized by this section.

(3) The commissioners shall enforce collection of connection charges, and rates and charges for water supplied against property owners connecting with the system or receiving such water, and for sewer and drainage services charged against property to which and its owners to whom the service is available, such charges being deemed charges against the property served, by addition of penalties of not more than ten percent thereof in case of failure to pay the charges at times fixed by resolution. The commissioners may provide by resolution that where either connection charges or rates and charges for services supplied are delinquent for any specified period of time, the district shall certify the delinquencies to the auditor of the county in which the real property is located, and the charges and any penalties added thereto and interest thereon at the rate of not more than the prime lending rate of the district's bank plus four percentage points per year shall be a lien against the property upon which the service was received, subject only to the lien for general taxes.

(4) The district may, at any time after the connection charges or rates and charges for services supplied or available and penalties are delinquent for a period of ((~~sixty~~)) 60 days, bring suit in foreclosure by civil action in the superior court of the county in which the real property is located. The court may allow, in addition to the costs and disbursements provided by statute, attorneys' fees, title search and report costs, and expenses as it adjudges reasonable. The action shall be in rem, and may be brought in the name of the district against an

individual or against all of those who are delinquent in one action. The laws and rules of the court shall control as in other civil actions.

(5) In addition to the right to foreclose provided in this section, the district may also cut off all or part of the service after charges for water or sewer service supplied or available are delinquent for a period of ((~~thirty~~)) 30 days, except on the days indicated in subsection (8) of this section.

(6) A district may determine how to apply partial payments on past due accounts.

(7) A district may provide a real property owner or the owner's designee with duplicate bills for service to tenants, or may notify an owner or the owner's designee that a tenant's service account is delinquent. However, if an owner or the owner's designee notifies the district in writing that a property served by the district is a rental property, asks to be notified of a tenant's delinquency, and has provided, in writing, a complete and accurate mailing address, the district shall notify the owner or the owner's designee of a tenant's delinquency at the same time and in the same manner the district notifies the tenant of the tenant's delinquency or by mail. When a district provides a real property owner or the owner's designee with duplicates of tenant utility service bills or notice that a tenant's utility account is delinquent, the district shall notify the tenant that it is providing the duplicate bills or delinquency notice to the owner or the owner's designee. After January 1, 1999, if a district fails to notify the owner of a tenant's delinquency after receiving a written request to do so and after receiving the other information required by this subsection (7), the district shall have no lien against the premises for the tenant's delinquent and unpaid charges.

(8) A district providing water utility service to residential customers may not effect, due to lack of payment, an involuntary termination of utility service to any residential user, including tenants of metered apartment buildings and residents of mobile homes, on any day for which the national weather service has issued or has announced that it intends to issue a heat-related alert, such as an excessive heat warning, a heat advisory, an excessive heat watch, or a similar alert, for the area in which the residential user's address is located.

(9)(a) A residential user at whose dwelling utility service has been disconnected for lack of payment may request that the district reconnect service on any day for which the national weather service has issued or has announced that it intends to issue a heat-related alert, such as an excessive heat warning, a heat advisory, an excessive heat watch, or a similar alert, for the area in which the residential user's address is located. The district shall inform all customers in the notice of disconnection of the ability to seek reconnection and provide clear and specific information on how to make that request, including how to contact the district.

(b) Upon receipt of a request made pursuant to (a) of this subsection, the district shall promptly make a reasonable attempt to reconnect service to the dwelling. The district, in connection with a request made pursuant to (a) of this subsection, may require the residential user to enter into a payment plan prior to reconnecting service to the dwelling. If the district requires the residential user to enter into a repayment plan, the repayment plan must comply with subsection (10) of this section.

(10) A repayment plan required by a district pursuant to subsection (9)(b) of this section will be designed both to pay the past due bill by the following May

15th, or as soon as possible after May 15th if needed to maintain monthly payments that are no greater than six percent of the customer's monthly income, and to pay for continued utility service. The plan may not require monthly payments in excess of six percent of the customer's monthly income. A customer may agree to pay a higher percentage during this period, but will not be in default unless payment during this period is less than six percent of the customer's monthly income. If assistance payments are received by the customer subsequent to implementation of the plan, the customer shall contact the district to reformulate the plan.

(11) On an annual basis, each district with more than 2,500 water customers in Washington must submit a report to the department of commerce that includes the total number of disconnections that occurred on each day for which the national weather service issued, or announced that it intended to issue, a heat-related alert. Districts with fewer than 2,500 water customers in Washington must provide similar information upon request by the department.

(a) Subject to availability, each district must provide any other information related to utility disconnections that is requested by the department.

(b) The information required in this subsection must be submitted in a form, timeline, and manner as prescribed by the department.

Sec. 6. RCW 80.28.010 and 2011 c 214 s 11 are each amended to read as follows:

(1) All charges made, demanded or received by any gas company, electrical company, wastewater company, or water company for gas, electricity or water, or for any service rendered or to be rendered in connection therewith, shall be just, fair, reasonable and sufficient. Reasonable charges necessary to cover the cost of administering the collection of voluntary donations for the purposes of supporting the development and implementation of evergreen community management plans and ordinances under RCW 80.28.300 must be deemed as prudent and necessary for the operation of a utility.

(2) Every gas company, electrical company, wastewater company, and water company shall furnish and supply such service, instrumentalities and facilities as shall be safe, adequate and efficient, and in all respects just and reasonable.

(3) All rules and regulations issued by any gas company, electrical company, wastewater company, or water company, affecting or pertaining to the sale or distribution of its product or service, must be just and reasonable.

(4) Utility service for residential space heating shall not be terminated between November 15 through March 15 if the customer:

(a) Notifies the utility of the inability to pay the bill((~~, including a security deposit~~)). This notice should be provided within five business days of receiving a payment overdue notice unless there are extenuating circumstances. If the customer fails to notify the utility within five business days and service is terminated, the customer can, by ((~~paying reconnection charges, if any, and~~)) fulfilling the requirements of this section, receive the protections of this chapter;

(b) Provides self-certification of household income for the prior twelve months to a grantee of the department of commerce, which administers federally funded energy assistance programs. The grantee shall determine that the household income does not exceed the maximum allowed for eligibility under the state's plan for low-income energy assistance under 42 U.S.C. 8624 and shall

provide a dollar figure that is seven percent of household income. The grantee may verify information provided in the self-certification;

(c) Has applied for home heating assistance from applicable government and private sector organizations and certifies that any assistance received will be applied to the current bill and future utility bills;

(d) Has applied for low-income weatherization assistance to the utility or other appropriate agency if such assistance is available for the dwelling;

(e) Agrees to a payment plan and agrees to maintain the payment plan. The plan will be designed both to pay the past due bill by the following October 15th and to pay for continued utility service. If the past due bill is not paid by the following October 15, the customer is not eligible for protections under this chapter until the past due bill is paid. The plan may not require monthly payments in excess of seven percent of the customer's monthly income plus one-twelfth of any arrearage accrued from the date application is made and thereafter during November 15 through March 15. A customer may agree to pay a higher percentage during this period, but shall not be in default unless payment during this period is less than seven percent of monthly income plus one-twelfth of any arrearage accrued from the date application is made and thereafter. If assistance payments are received by the customer subsequent to implementation of the plan, the customer shall contact the utility to reformulate the plan; and

(f) Agrees to pay the moneys owed even if ((~~he or she moves.~~

~~(5)~~)) the customer moves.

(5) The utility shall:

(a) Include in any notice that an account is delinquent and that service may be subject to termination, a description of the customer's duties in this section;

(b) Assist the customer in fulfilling the requirements under this section;

(c) Be authorized to transfer an account to a new residence when a customer who has established a plan under this section moves from one residence to another within the same utility service area;

(d) Be permitted to disconnect service if the customer fails to honor the payment program except on the days indicated in subsection (8) of this section. Utilities may continue to disconnect service for those practices authorized by law other than for nonpayment as provided for in this subsection. Customers who qualify for payment plans under this section who default on their payment plans and are disconnected can be reconnected and maintain the protections afforded under this chapter by paying ((~~reconnection charges, if any, and by paying~~)) all amounts that would have been due and owing under the terms of the applicable payment plan, absent default, on the date on which service is reconnected; and

(e) Advise the customer in writing at the time it disconnects service that it will restore service if the customer contacts the utility and fulfills the other requirements of this section.

(6) A payment plan implemented under this section is consistent with RCW 80.28.080.

(7) Every gas company and electrical company shall offer residential customers the option of a budget billing or equal payment plan. The budget billing or equal payment plan shall be offered low-income customers eligible under the state's plan for low-income energy assistance prepared in accordance with 42 U.S.C. 8624(C)(1) without limiting availability to certain months of the

year, without regard to the length of time the customer has occupied the premises, and without regard to whether the customer is the tenant or owner of the premises occupied.

(8)(a) Every electrical company and water company must have and must abide by the terms of a tariff approved by the commission that prohibits the electrical company or water company from effecting, due to lack of payment, an involuntary termination of electric or water utility service to any residential user, including tenants of metered apartment buildings and residents of mobile homes, on any day for which the national weather service has issued or has announced that it intends to issue a heat-related alert, such as an excessive heat warning, a heat advisory, an excessive heat watch, or a similar alert, for the area in which the residential user's address is located.

(b) Nothing in this subsection (8) limits the authority of the commission to prohibit an electrical company or water company from terminating electric or water utility service in accordance with an approved tariff, rule, or order, in circumstances independent of the weather.

(9)(a) A residential user at whose dwelling electric or water utility service has been disconnected for lack of payment may request that the utility reconnect service on any day for which the national weather service has issued or has announced that it intends to issue a heat-related alert, such as an excessive heat warning, a heat advisory, an excessive heat watch, or a similar alert, for the area in which the residential user's address is located. The utility shall, through a process approved by the commission, inform all customers in the notice of disconnection of the ability to seek reconnection and provide clear and specific information on how to make that request, including how to contact the utility.

(b) Upon receipt of a request made pursuant to (a) of this subsection, the utility shall promptly make a reasonable attempt to reconnect service to the dwelling. The utility, in connection with a request made pursuant to (a) of this subsection, may require the residential user to enter into a payment plan prior to reconnecting service to the dwelling. If the utility requires the residential user to enter into a repayment plan, the repayment plan must comply with subsection (10) of this section.

(10) A repayment plan required by a utility pursuant to subsection (9)(b) of this section will be designed both to pay the past due bill by the following May 15th, or as soon as possible after May 15th if needed to maintain monthly payments that are no greater than six percent of the customer's monthly income, and to pay for continued utility service. The plan may not require monthly payments in excess of six percent of the customer's monthly income. A customer may agree to pay a higher percentage during this period, but will not be in default unless payment during this period is less than six percent of the customer's monthly income. If assistance payments are received by the customer subsequent to implementation of the plan, the customer shall contact the utility to reformulate the plan.

(11) Every gas company, electrical company, wastewater company, and water company shall construct and maintain such facilities in connection with the manufacture and distribution of its product, or provision of its services, as will be efficient and safe to its employees and the public.

((~~(9)~~)) (12) An agreement between the customer and the utility, whether oral or written, does not waive the protections afforded under this chapter.

(((~~(10)~~))) (13) In establishing rates or charges for water service, water companies as defined in RCW 80.04.010 may consider the achievement of water conservation goals and the discouragement of wasteful water use practices.

(14) On an annual basis, each utility must submit a report to the commission that includes the total number of electric or water disconnections that occurred on each day for which the national weather service issued, or announced that it intended to issue, a heat-related alert.

Sec. 7. RCW 87.03.015 and 2017 c 63 s 1 are each amended to read as follows:

(1) Any irrigation district, operating and maintaining an irrigation system, in addition to other powers conferred by law, shall have authority:

(((~~(1)~~))) (a) To purchase and sell electric power to the inhabitants of the irrigation district for the purposes of irrigation and domestic use; to finance, acquire, construct, own, and lease dams, canals, plants, transmission lines, and other power equipment and the necessary property and rights therefor and to operate, improve, repair, and maintain the same, for the generation and transmission of electrical energy for use in the operation of pumping plants and irrigation systems of the district and for sale to the inhabitants of the irrigation district for the purposes of irrigation and domestic use; and, as a further and separate grant of authority and in furtherance of a state purpose and policy of developing hydroelectric capability in connection with irrigation facilities, to construct, finance, acquire, own, lease, operate, improve, repair, and maintain, alone or jointly with other irrigation districts, boards of control, municipal or quasi-municipal corporations or cooperatives authorized to engage in the business of distributing electricity, electrical companies subject to the jurisdiction of the utilities and transportation commission, private commercial or industrial entities that construct or operate electric power generation or transmission facilities, or private commercial or industrial entities that acquire electric power for their own use or resale, hydroelectric facilities including but not limited to dams, canals, plants, transmission lines, other power equipment, and the necessary property and rights therefor, located within or outside the district, for the purpose of utilizing for the generation of electricity, water power made available by and as a part of the irrigation water storage, conveyance, and distribution facilities, waste ways, and drainage water facilities which serve irrigation districts, and to sell any and all the electric energy generated at any such hydroelectric facilities or the irrigation district's share of such energy, to municipal or quasi-municipal corporations or cooperatives authorized to engage in the business of distributing electricity, electrical companies subject to the jurisdiction of the utilities and transportation commission, private commercial or industrial entities that acquire electric power for their own use or resale, or other irrigation districts, and on such terms and conditions as the board of directors shall determine. No contract entered into under this subsection (1)(a) by the board of directors of any irrigation district for the sale of electrical energy from such hydroelectric facility for a period longer than forty years from the date of commercial operation of such hydroelectric facility shall be binding on the district until ratified by a majority vote of the electors of the district at an election therein, called, held, and canvassed for that purpose in the same manner as that provided by law for district bond elections.

(((~~(2)~~))) (b) To construct, repair, purchase, maintain, or lease a system for the sale or lease of water to the owners of irrigated lands within the district for domestic purposes.

(((~~(3)~~))) (c) To construct, repair, purchase, lease, acquire, operate and maintain a system of drains, sanitary sewers, and sewage disposal or treatment plants as herein provided.

(((~~(4)~~))) (d) To assume, as principal or guarantor, any indebtedness to the United States under the federal reclamation laws, on account of district lands.

(((~~(5)~~))) (e) To maintain, repair, construct, and reconstruct ditches, laterals, pipe lines, and other water conduits used or to be used in carrying water for irrigation of lands located within the boundaries of a city or town, or for the domestic use of the residents of a city or town where the owners of land within such city or town shall use such works to carry water to the boundaries of such city or town for irrigation, domestic, or other purposes within such city or town, and to charge to such city or town the pro rata proportion of the cost of such maintenance, repair, construction, and reconstruction work in proportion to the benefits received by the lands served and located within the boundaries of such city or town, and if such cost is not paid, then and in that event said irrigation district shall have the right to prevent further water deliveries through such works to the lands located within the boundaries of such city or town until such charges have been paid.

(((~~(6)~~))) (f) To acquire, install, and maintain as a part of the irrigation district's water system the necessary water mains and fire hydrants to make water available for firefighting purposes; and in addition any such irrigation district shall have the authority to repair, operate, and maintain such hydrants and mains.

(((~~(7)~~))) (g) To enter into contracts with other irrigation districts, boards of control, municipal or quasi-municipal corporations or cooperatives authorized to engage in the business of distributing electricity, electrical companies subject to the jurisdiction of the utilities and transportation commission, private commercial or industrial entities that construct or operate electric power generation or transmission facilities, or private commercial or industrial entities that acquire electric power for their own use or resale, to jointly finance, acquire, lease, construct, own, operate, improve, repair, and maintain irrigation water, domestic water, drainage and sewerage works, and electrical power works to the same extent as authorized by (a) of this subsection (((~~(1) of this section~~))), or portions of such works. If an irrigation district enters into a contract or agreement under this subsection (1)(g) to create a legal entity or undertaking with an investor-owned utility or a private commercial or industrial entity, that contract or agreement must provide that the irrigation district be severally liable only for its own acts and not jointly or severally liable for the acts, omissions, or obligations of an investor-owned utility or a private commercial or industrial entity. No money or property supplied by any irrigation district for the planning, financing, acquisition, construction, operation, or maintenance of any common facility may be credited or otherwise applied to the account of any investor-owned utility or private commercial or industrial entity therein, nor may the undivided share of any irrigation district in any common facility be charged, directly or indirectly, with any debt or obligation of any investor-owned utility or private commercial or industrial entity or be subject to any lien as a result

thereof. No action in connection with a common facility may be binding upon any irrigation district unless authorized or approved by resolution of its board.

((~~(8)~~)) (h) To acquire from a water-sewer district wholly within the irrigation district's boundaries, by a conveyance without cost, the water-sewer district's water system and to operate the same to provide water for the domestic use of the irrigation district residents. As a part of its acceptance of the conveyance the irrigation district must agree to relieve the water-sewer district of responsibility for maintenance and repair of the system. Any such water-sewer district is authorized to make such a conveyance if all indebtedness of the water-sewer district, except local improvement district bonds, has been paid and the conveyance has been approved by a majority of the water-sewer district's voters voting at a general or special election.

((~~(9)~~)) (i) To approve and condition placement of hydroelectric generation facilities by entities other than the district on water conveyance facilities operated or maintained by the district.

(2) An irrigation district providing electric or water utility service to residential customers may not effect, due to lack of payment, an involuntary termination of utility service to any residential users, including tenants of metered apartment buildings and residents of mobile homes, on any day for which the national weather service has issued or has announced that it intends to issue a heat-related alert, such as an excessive heat warning, a heat advisory, an excessive heat watch, or a similar alert, for the area in which the residential user's address is located.

(a)(i) A residential user at whose dwelling electric or water utility service has been disconnected for lack of payment may request that the irrigation district reconnect service on any day for which the national weather service has issued or has announced that it intends to issue a heat-related alert, such as an excessive heat warning, a heat advisory, an excessive heat watch, or a similar alert, for the area in which the residential user's address is located. The irrigation district shall inform all customers in the notice of disconnection of the ability to seek reconnection and provide clear and specific information on how to make that request, including how to contact the irrigation district.

(ii) Upon receipt of a request made pursuant to (a)(i) of this subsection, the irrigation district shall promptly make a reasonable attempt to reconnect service to the dwelling. The irrigation district, in connection with a request made pursuant to (a)(i) of this subsection, may require the residential user to enter into a payment plan prior to reconnecting service to the dwelling. If the irrigation district requires the residential user to enter into a repayment plan, the repayment plan must comply with (b) of this subsection.

(b) A repayment plan required by an irrigation district pursuant to (a)(ii) of this subsection will be designed both to pay the past due bill by the following May 15th, or as soon as possible after May 15th if needed to maintain monthly payments that are no greater than six percent of the customer's monthly income, and to pay for continued utility service. The plan may not require monthly payments in excess of six percent of the customer's monthly income. A customer may agree to pay a higher percentage during this period, but will not be in default unless payment during this period is less than six percent of the customer's monthly income. If assistance payments are received by the customer

subsequent to implementation of the plan, the customer shall contact the irrigation district to reformulate the plan.

(c) On an annual basis, each irrigation district with more than 25,000 retail electric customers or 2,500 water customers in Washington must submit a report to the department of commerce that includes the total number of disconnections that occurred on each day for which the national weather service issued, or announced that it intended to issue, a heat-related alert. Irrigation districts with fewer than 25,000 retail electric customers or 2,500 water customers in Washington must provide similar information upon request by the department.

(i) Subject to availability, each irrigation district must provide any other information related to utility disconnections that is requested by the department.

(ii) The information required in this subsection (2)(c) must be submitted in a form, timeline, and manner as prescribed by the department.

(3) This section shall not be construed as in any manner abridging any other powers of an irrigation district conferred by law.

Sec. 8. RCW 59.18.060 and 2013 c 35 s 1 are each amended to read as follows:

The landlord will at all times during the tenancy keep the premises fit for human habitation, and shall in particular:

(1) Maintain the premises to substantially comply with any applicable code, statute, ordinance, or regulation governing their maintenance or operation, which the legislative body enacting the applicable code, statute, ordinance or regulation could enforce as to the premises rented if such condition endangers or impairs the health or safety of the tenant;

(2) Maintain the structural components including, but not limited to, the roofs, floors, walls, chimneys, fireplaces, foundations, and all other structural components, in reasonably good repair so as to be usable;

(3) Keep any shared or common areas reasonably clean, sanitary, and safe from defects increasing the hazards of fire or accident;

(4) Provide a reasonable program for the control of infestation by insects, rodents, and other pests at the initiation of the tenancy and, except in the case of a single-family residence, control infestation during tenancy except where such infestation is caused by the tenant;

(5) Except where the condition is attributable to normal wear and tear, make repairs and arrangements necessary to put and keep the premises in as good condition as it by law or rental agreement should have been, at the commencement of the tenancy;

(6) Provide reasonably adequate locks and furnish keys to the tenant;

(7) Maintain and safeguard with reasonable care any master key or duplicate keys to the dwelling unit;

(8) Maintain all electrical, plumbing, heating, and other facilities and appliances supplied by him or her in reasonably good working order;

(9) Maintain the dwelling unit in reasonably weathertight condition;

(10) Except in the case of a single-family residence, provide and maintain appropriate receptacles in common areas for the removal of ashes, rubbish, and garbage, incidental to the occupancy and arrange for the reasonable and regular removal of such waste;

(11) Provide facilities adequate to supply heat and water and hot water as reasonably required by the tenant;

(a) The landlord may not effect an involuntary termination of electric utility or water service due to lack of payment to any tenant on any day for which the national weather service has issued or has announced that it intends to issue a heat-related alert, such as an excessive heat warning, a heat advisory, an excessive heat watch, or a similar alert, for the area in which the tenant's address is located.

(b)(i) A tenant at whose dwelling electric or water utility service has been disconnected for lack of payment may request that the landlord reconnect service on any day for which the national weather service has issued or has announced that it intends to issue a heat-related alert, such as an excessive heat warning, a heat advisory, an excessive heat watch, or a similar alert, for the area in which the tenant's address is located. The landlord shall inform all tenants in the notice of disconnection of the ability to seek reconnection and provide clear and specific information on how to make that request, including how to contact the landlord.

(ii) Upon receipt of a request made pursuant to (b)(i) of this subsection, the landlord shall promptly make a reasonable attempt to reconnect service to the dwelling. The landlord, in connection with a request made pursuant to (b)(i) of this subsection, may require the tenant to enter into a payment plan prior to reconnecting service to the dwelling. If the landlord requires the tenant to enter into a repayment plan, the repayment plan must comply with (c) of this subsection.

(c) A repayment plan required by a landlord pursuant to (b)(i) of this subsection will be designed both to pay the past due bill by the following May 15th, or as soon as possible after May 15th if needed to maintain monthly payments that are no greater than six percent of the tenant's monthly income, and to pay for continued utility service. The plan may not require monthly payments in excess of six percent of the tenant's monthly income. A tenant may agree to pay a higher percentage during this period, but will not be in default unless payment during this period is less than six percent of the tenant's monthly income. If assistance payments are received by the tenant subsequent to implementation of the plan, the tenant shall contact the landlord to reformulate the plan.

(12)(a) Provide a written notice to all tenants disclosing fire safety and protection information. The landlord or his or her authorized agent must provide a written notice to the tenant that the dwelling unit is equipped with a smoke detection device as required in RCW 43.44.110. The notice shall inform the tenant of the tenant's responsibility to maintain the smoke detection device in proper operating condition and of penalties for failure to comply with the provisions of RCW 43.44.110(3). The notice must be signed by the landlord or the landlord's authorized agent and tenant with copies provided to both parties. Further, except with respect to a single-family residence, the written notice must also disclose the following:

(i) Whether the smoke detection device is hard-wired or battery operated;

(ii) Whether the building has a fire sprinkler system;

(iii) Whether the building has a fire alarm system;

(iv) Whether the building has a smoking policy, and what that policy is;

(v) Whether the building has an emergency notification plan for the occupants and, if so, provide a copy to the occupants;

(vi) Whether the building has an emergency relocation plan for the occupants and, if so, provide a copy to the occupants; and

(vii) Whether the building has an emergency evacuation plan for the occupants and, if so, provide a copy to the occupants.

(b) The information required under this subsection may be provided to a tenant in a multifamily residential building either as a written notice or as a checklist that discloses whether the building has fire safety and protection devices and systems. The checklist shall include a diagram showing the emergency evacuation routes for the occupants.

(c) The written notice or checklist must be provided to new tenants at the time the lease or rental agreement is signed;

(13) Provide tenants with information provided or approved by the department of health about the health hazards associated with exposure to indoor mold. Information may be provided in written format individually to each tenant, or may be posted in a visible, public location at the dwelling unit property. The information must detail how tenants can control mold growth in their dwelling units to minimize the health risks associated with indoor mold. Landlords may obtain the information from the department's website or, if requested by the landlord, the department must mail the information to the landlord in a printed format. When developing or changing the information, the department of health must include representatives of landlords in the development process. The information must be provided by the landlord to new tenants at the time the lease or rental agreement is signed;

(14) The landlord and his or her agents and employees are immune from civil liability for failure to comply with subsection (13) of this section except where the landlord and his or her agents and employees knowingly and intentionally do not comply with subsection (13) of this section; and

(15) Designate to the tenant the name and address of the person who is the landlord by a statement on the rental agreement or by a notice conspicuously posted on the premises. The tenant shall be notified immediately of any changes in writing, which must be either (a) delivered personally to the tenant or (b) mailed to the tenant and conspicuously posted on the premises. If the person designated in this section does not reside in the state where the premises are located, there shall also be designated a person who resides in the county who is authorized to act as an agent for the purposes of service of notices and process, and if no designation is made of a person to act as agent, then the person to whom rental payments are to be made shall be considered such agent. Regardless of such designation, any owner who resides outside the state and who violates a provision of this chapter is deemed to have submitted himself or herself to the jurisdiction of the courts of this state and personal service of any process may be made on the owner outside the state with the same force and effect as personal service within the state. Any summons or process served out-of-state must contain the same information and be served in the same manner as personal service of summons or process served within the state, except the summons or process must require the party to appear and answer within ((~~sixty~~)) 60 days after such personal service out of the state. In an action for a violation of this chapter that is filed under chapter 12.40 RCW, service of the notice of claim outside the state must contain the same information and be served in the same manner as required under chapter 12.40 RCW, except the date on which the

party is required to appear must not be less than ((~~sixty~~)) 60 days from the date of service of the notice of claim.

No duty shall devolve upon the landlord to repair a defective condition under this section, nor shall any defense or remedy be available to the tenant under this chapter, where the defective condition complained of was caused by the conduct of such tenant, his or her family, invitee, or other person acting under his or her control, or where a tenant unreasonably fails to allow the landlord access to the property for purposes of repair. When the duty imposed by subsection (1) of this section is incompatible with and greater than the duty imposed by any other provisions of this section, the landlord's duty shall be determined pursuant to subsection (1) of this section.

Sec. 9. RCW 59.20.070 and 2019 c 342 s 4 are each amended to read as follows:

A landlord shall not:

(1) Deny any tenant the right to sell such tenant's mobile home, manufactured home, or park model within a park, or prohibit, in any manner, any tenant from posting on the tenant's manufactured/mobile home or park model, or on the rented mobile home lot, a commercially reasonable "for sale" sign or any similar sign designed to advertise the sale of the manufactured/mobile home or park model. In addition, a landlord shall not require the removal of the mobile home, manufactured home, or park model from the park because of the sale thereof. Requirements for the transfer of the rental agreement are in RCW 59.20.073. Nothing in this subsection prohibits a landlord from enforcing reasonable rules or restrictions regarding the placement of "for sale" signs on the tenant's manufactured/mobile home or park model, or on the rented mobile home lot, if (a) the main purpose of the rules or restrictions is to protect the safety of park tenants or residents and (b) the rules or restrictions comply with RCW 59.20.045. The landlord may restrict the number of "for sale" signs on the lot to two and may restrict the size of the signs to conform to those in common use by home sale businesses;

(2) Restrict the tenant's freedom of choice in purchasing goods or services but may reserve the right to approve or disapprove any exterior structural improvements on a mobile home space: PROVIDED, That door-to-door solicitation in the mobile home park may be restricted in the rental agreement. Door-to-door solicitation does not include public officials, housing and low-income assistance organizations, or candidates for public office meeting or distributing information to tenants in accordance with subsection (3) or (4) of this section;

(3) Prohibit the distribution of information or meetings by tenants of the mobile home park to discuss mobile home living and affairs, including political caucuses or forums for or speeches of public officials or candidates for public office, meetings with housing and low-income assistance organizations, or meetings of organizations that represent the interest of tenants in the park, held in a tenant's home or any of the park community or recreation halls if these halls are open for the use of the tenants, conducted at reasonable times and in an orderly manner on the premises, nor penalize any tenant for participation in such activities;

(4) Prohibit a public official, housing and low-income assistance organization, or candidate for public office from meeting with or distributing

information to tenants in their individual mobile homes, manufactured homes, or park models, nor penalize any tenant for participating in these meetings or receiving this information;

(5) Evict a tenant, terminate a rental agreement, decline to renew a rental agreement, increase rental or other tenant obligations, decrease services, or modify park rules in retaliation for any of the following actions on the part of a tenant taken in good faith:

(a) Filing a complaint with any federal, state, county, or municipal governmental authority relating to any alleged violation by the landlord of an applicable statute, regulation, or ordinance;

(b) Requesting the landlord to comply with the provision of this chapter or other applicable statute, regulation, or ordinance of the state, county, or municipality;

(c) Filing suit against the landlord for any reason;

(d) Participation or membership in any homeowners association or group;

(6) Charge to any tenant a utility fee in excess of actual utility costs or intentionally cause termination or interruption of any tenant's utility services, including water, heat, electricity, or gas, except when an interruption of a reasonable duration is required to make necessary repairs;

(7)(a) Effect an involuntary termination of electric utility or water service due to lack of payment to any tenant on any day for which the national weather service has issued or has announced that it intends to issue a heat-related alert, such as an excessive heat warning, a heat advisory, an excessive heat watch, or a similar alert, for the area in which the tenant's address is located.

(b)(i) A tenant at whose dwelling electric or water utility service has been disconnected for lack of payment may request that the landlord reconnect service on any day for which the national weather service has issued or has announced that it intends to issue a heat-related alert, such as an excessive heat warning, a heat advisory, an excessive heat watch, or a similar alert, for the area in which the tenant's address is located. The landlord shall inform all tenants in the notice of disconnection of the ability to seek reconnection and provide clear and specific information on how to make that request, including how to contact the landlord.

(ii) Upon receipt of a request made pursuant to (b)(i) of this subsection, the landlord shall promptly make a reasonable attempt to reconnect service to the dwelling. The landlord, in connection with a request made pursuant to (b)(i) of this subsection, may require the tenant to enter into a payment plan prior to reconnecting service to the dwelling. If the landlord requires the tenant to enter into a repayment plan, the repayment plan must comply with (c) of this subsection.

(c) A repayment plan required by a landlord pursuant to (b)(ii) of this subsection will be designed both to pay the past due bill by the following May 15th, or as soon as possible after May 15th if needed to maintain monthly payments that are no greater than six percent of the tenant's monthly income, and to pay for continued utility service. The plan may not require monthly payments in excess of six percent of the tenant's monthly income. A tenant may agree to pay a higher percentage during this period, but will not be in default unless payment during this period is less than six percent of the tenant's monthly income. If assistance payments are received by the tenant subsequent to

implementation of the plan, the tenant shall contact the landlord to reformulate the plan.

(8) Remove or exclude a tenant from the premises unless this chapter is complied with or the exclusion or removal is under an appropriate court order; or

(((~~(8)~~))) (9) Prevent the entry or require the removal of a mobile home, manufactured home, or park model for the sole reason that the mobile home has reached a certain age. Nothing in this subsection shall limit a landlord's right to exclude or expel a mobile home, manufactured home, or park model for any other reason, including but not limited to, failure to comply with fire, safety, and other provisions of local ordinances and state laws relating to mobile homes, manufactured homes, and park models, as long as the action conforms to this chapter or any other relevant statutory provision.

Passed by the House February 27, 2023.
Passed by the Senate April 10, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 106

[Engrossed Senate Bill 5015]

PRODUCTIVITY BOARD—REESTABLISHMENT

AN ACT Relating to reestablishing the productivity board; amending RCW 41.60.020, 41.60.041, 41.60.050, 41.60.120, and 41.60.150; and reenacting and amending RCW 41.60.015.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 41.60.015 and 2011 1st sp.s. c 43 s 443 and 2011 1st sp.s. c 21 s 30 are each reenacted and amended to read as follows:

(1) ((~~There~~)) Subject to the availability of amounts appropriated for this specific purpose, there is hereby created the productivity board, which may also be known as the employee involvement and recognition board. The board shall administer the employee suggestion program and the teamwork incentive program under this chapter.

(2) The board shall be composed of:

(a) The secretary of state who shall act as chairperson;

(b) The director of financial management or the director's designee;

(c) The director of enterprise services or the director's designee;

(d) Three persons with experience in administering incentives such as those used by industry, with the lieutenant governor, secretary of state, and speaker of the house of representatives each appointing one person by January 1, 2025, or as soon as practicable. The secretary of state's appointee shall be a representative of an employee organization certified as an exclusive representative of at least one bargaining unit of classified employees; and

(e) Two persons representing state agencies and institutions with employees subject to chapter 41.06 RCW, and one person representing those subject to chapter 28B.16 RCW, both appointed by the secretary of state by January 1, 2025, or as soon as practicable.

Members under subsection (2)(d) and (e) of this section shall be appointed to serve three-year terms.

Members of the board appointed pursuant to subsection (2)(d) of this section may be compensated in accordance with RCW 43.03.240. Any board member who is not a state employee may be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

Sec. 2. RCW 41.60.020 and 1999 c 50 s 3 are each amended to read as follows:

(1) The board shall formulate, establish, and maintain a statewide employee suggestion program and adopt rules to allow for agency unique suggestion programs. Employee suggestion programs are developed to encourage and reward meritorious suggestions by state employees that will promote efficiency and economy in the performance of any function of state government: PROVIDED, That the program shall include provisions for the processing of suggestions having multiagency impact and post-implementation auditing of suggestions for fiscal accountability.

(2) The board shall adopt rules necessary or appropriate for the proper administration and for the accomplishment of the purposes of this chapter. These rules shall include the adoption of a payment award schedule that establishes the criteria for determining the amounts of any financial or other awards under this chapter.

(3) The board shall prepare a topical list of all the productivity awards granted and disseminate this information to the legislature and all state government agencies that may be able to adapt them to their procedures.

Sec. 3. RCW 41.60.041 and 1999 c 50 s 5 are each amended to read as follows:

(1) Cash awards for suggestions generating net savings, revenue, or both to the state shall be determined by the board, or the board's designee, based on the payment award scale. No award may be granted in excess of ten thousand dollars or 10 percent of the actual net savings and/or revenue generated, whichever amount is less. Savings, revenue, or both, shall be calculated for the first year of implementation.

(2) The board shall establish guidelines for making cash awards for suggestions for which benefits to the state are intangible or for which benefits cannot be calculated.

(3) Funds for the awards shall be drawn from the appropriation of the agency benefiting from the employee's suggestion. If the suggestion reduces costs to a nonappropriated fund or reduces costs paid without appropriation from a nonappropriated portion of an appropriated fund, an award may be paid from the benefiting fund or account without appropriation.

(4) Awards may be paid to state employees for suggestions which generate new or additional money for the general fund or any other funds of the state. The director of financial management shall distribute moneys appropriated for this purpose with the concurrence of the productivity board. Transfers shall be made from other funds of the state to the general fund, in amounts equal to award payments made by the general fund, for suggestions generating new or additional money for those other funds.

Sec. 4. RCW 41.60.050 and 2022 c 297 s 950 are each amended to read as follows:

The legislature shall appropriate from the personnel service fund for the payment of administrative costs of the productivity board. ((~~However, during the 2015-2017, 2017-2019, and 2019-2021 fiscal biennia, and during fiscal year 2022, the operations of the productivity board shall be suspended.~~))

Sec. 5. RCW 41.60.120 and 1999 c 50 s 9 are each amended to read as follows:

The agency head may recommend an award amount to the board. Cash awards for suggestion teams shall be up to 25 percent of the actual net savings and/or revenue generated to be shared by the team in a manner approved by the agency head, not to exceed $10,000 per team member. The board shall make the final determination as to whether an award will be made in accordance with applicable rules governing the teamwork incentive program. Awards will be based on the payment award scale. Funds for the teamwork incentive award shall be drawn from the agencies in which the unit is located or from the benefiting fund or account without appropriation when additional revenue is generated to the fund or account.

Awards may be paid to teams for process changes which generate new or additional money for the general fund or any other funds of the state. The director of the office of financial management shall distribute moneys appropriated for this purpose with the concurrence of the productivity board. Transfers shall be made from other funds of the state to the general fund in amounts equal to award payments made by the general fund, for innovations generating new or additional money for those other funds.

Sec. 6. RCW 41.60.150 and 2011 1st sp.s. c 39 s 9 are each amended to read as follows:

Other than suggestion awards and incentive pay unit awards, agencies shall have the authority to recognize employees, either individually or as a class, for accomplishments including outstanding achievements, safety performance, longevity, outstanding public service, or service as employee suggestion evaluators and implementors. Recognition awards may not exceed two hundred dollars in value per award. Such awards may include, but not be limited to, cash or such items as pen and desk sets, plaques, pins, framed certificates, clocks, and calculators. Award costs shall be paid by the agency giving the award. ((~~From February 15, 2010, through June 30, 2013, recognition awards may not be given in the form of cash or cash equivalents such as gift certificates or gift cards.~~))

Passed by the Senate March 8, 2023.
Passed by the House April 7, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 107

[Senate Bill 5066]

HEALTH CARE BENEFIT MANAGERS—HEALTH CARRIER CONTRACT FILING

AN ACT Relating to clarifying that health care benefit managers must file contracts with health carriers with the office of the insurance commissioner; amending RCW 48.200.040; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 48.200.040 and 2020 c 240 s 4 are each amended to read as follows:

(1) A health care benefit manager may not provide health care benefit management services to a health carrier or employee benefits programs without a written agreement describing the rights and responsibilities of the parties conforming to the provisions of this chapter and any rules adopted by the commissioner to implement or enforce this chapter including rules governing contract content.

(2) A health care benefit manager must file with the commissioner in the form and manner prescribed by the commissioner, every benefit management contract and contract amendment between the health care benefit manager and a health carrier, provider, pharmacy, pharmacy services administration organization, or other health care benefit manager, entered into directly or indirectly in support of a contract with a carrier or employee benefits programs, within ((~~thirty~~)) 30 days following the effective date of the contract or contract amendment. Contracts and contract amendments between health care benefit managers and health carriers that were executed prior to the effective date of this section and remain in force must be filed with the commissioner no later than 60 days following the effective date of this section.

(3) Contracts filed under this section are confidential and not subject to public inspection under RCW 48.02.120(2), or public disclosure under chapter 42.56 RCW, if filed in accordance with the procedures for submitting confidential filings through the system for electronic rate and form filings and the general filing instructions as set forth by the commissioner. In the event the referenced filing fails to comply with the filing instructions setting forth the process to withhold the contract from public inspection, and the health care benefit manager indicates that the contract is to be withheld from public inspection, the commissioner must reject the filing and notify the health care benefit manager through the system for electronic rate and form filings to amend its filing to comply with the confidentiality filing instructions.

NEW SECTION.** ***Sec. 2.** ***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.

Sec. 2 was vetoed. See message at end of chapter.

Passed by the Senate February 28, 2023.

Passed by the House April 6, 2023.

Approved by the Governor April 20, 2023, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 21, 2023.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 2, Senate Bill No. 5066 entitled:

"AN ACT Relating to clarifying that health care benefit managers must file contracts with health carriers with the office of the insurance commissioner."

I am vetoing Section 2 of this bill, which adds an emergency clause to be [the] bill. This bill is not addressing an emergency for which this bill needs to be enacted immediately. Therefore, I am vetoing the emergency clause, and the bill will be enacted 90 days from today.

For these reasons I have vetoed Section 2 of Senate Bill No. 5066.

With the exception of Section 2, Senate Bill No. 5066 is approved."

CHAPTER 108

[Senate Bill 5070]

NONFATAL STRANGULATION VICTIMS—MEDICAL EXAM COSTS

AN ACT Relating to victims of nonfatal strangulation; amending RCW 7.68.803; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 7.68.803 and 2021 c 269 s 3 are each amended to read as follows:

(1) No costs incurred by a hospital or other emergency medical facility for the examination of the victim of domestic violence assault involving nonfatal strangulation, when such examination is performed for the purposes of gathering evidence for possible prosecution, shall be billed or charged directly or indirectly to the victim of such assault. Such costs shall be paid by the state pursuant to this chapter.

(2) The department must notify the office of financial management and the fiscal committees of the legislature if it projects that the cost of services provided under this section exceeds the amount of funding provided by the legislature solely for the purposes of this section.

~~(((3) No later than October 1, 2022, the department shall report to the legislature the following information for fiscal year 2022:~~

~~(a) The number, type, and amount of claims received by victims of suspected nonfatal strangulation, with a subtotal of claims that also involved sexual assault;~~

~~(b) The number, type, and amount of claims paid for victims of suspected nonfatal strangulation, with a subtotal of claims that also involved sexual assault; and~~

~~(c) The number of police reports filed by victims of suspected nonfatal strangulation who received services under this section.~~

~~(4) This section expires June 30, 2023.~~))

NEW SECTION. **Sec. 2.** 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 June 30, 2023.

Passed by the Senate February 27, 2023.
Passed by the House April 6, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 109

[Engrossed Substitute Senate Bill 5082]

ADVISORY VOTES—REPEAL

AN ACT Relating to encouraging electoral participation and making ballots more meaningful by abolishing advisory votes; amending RCW 29A.32.070, 29A.64.090, 29A.72.040, 29A.72.250, 29A.72.290, and 29A.32.031; adding a new section to chapter 44.48 RCW; creating a new section; and repealing RCW 29A.72.283, 29A.72.285, and 43.135.041.

Be it enacted by the Legislature of the State of Washington:

PART I

STATEMENT OF LEGISLATIVE INTENT

NEW SECTION. **Sec. 1.** The legislature finds that making the act of casting a ballot as simple as possible will help promote the free and equal elections guaranteed by Article I, section 19 and Article VI, section 1 of the Washington state Constitution. The legislature recognizes that transparency and fiscal responsibility are important to the people of Washington, and that election administration and ballot design should reflect these long-held values. The legislature further finds that the people rightfully expect items on their ballots to be neutrally and accurately worded. Finally, the legislature finds for the votes that Washingtonians cast to have meaning, the ballot must be limited to candidate elections that give the people the power to choose their representatives or ballot measures that determine what laws and plan of government the state and its localities shall have.

PART II
REPEAL OF ADVISORY VOTES

Sec. 2. RCW 29A.32.070 and 2016 c 83 s 1 are each amended to read as follows:

The secretary of state shall determine the format and layout of the voters' pamphlet published under RCW 29A.32.010. The secretary of state shall print the pamphlet in clear, readable type on a size, quality, and weight of paper that in the judgment of the secretary of state best serves the voters. The pamphlet must contain a table of contents. Measures and arguments must be printed in the order specified by RCW 29A.72.290.

The secretary of state's name may not appear in the voters' pamphlet in his or her official capacity if the secretary is a candidate for office during the same year. His or her name may only be included as part of the information normally included for candidates.

The voters' pamphlet must provide the following information for each statewide issue on the ballot ((~~except measures for an advisory vote of the people whose requirements are provided in subsection (11) of this section~~)):

(1) The legal identification of the measure by serial designation or number;

(2) The official ballot title of the measure;

(3) A statement prepared by the attorney general explaining the law as it presently exists;

(4) A statement prepared by the attorney general explaining the effect of the proposed measure if it becomes law;

(5) The fiscal impact statement prepared under RCW 29A.72.025;

(6) The total number of votes cast for and against the measure in the senate and house of representatives, if the measure has been passed by the legislature;

(7) An argument advocating the voters' approval of the measure together with any statement in rebuttal of the opposing argument;

(8) An argument advocating the voters' rejection of the measure together with any statement in rebuttal of the opposing argument;

(9) Each argument or rebuttal statement must be followed by the names of the committee members who submitted them, and may be followed by a

telephone number that citizens may call to obtain information on the ballot measure;

(10) The full text of the measure((~~;~~

~~(11) Two pages shall be provided in the general election voters' pamphlet for each measure for an advisory vote of the people under RCW 43.135.041 and shall consist of the serial number assigned by the secretary of state under RCW 29A.72.040, the short description formulated by the attorney general under RCW 29A.72.283, the tax increase's most up-to-date ten-year cost projection, including a year-by-year breakdown, by the office of financial management under RCW 43.135.031, and the names of the legislators, and their contact information, and how they voted on the increase upon final passage so they can provide information to, and answer questions from, the public. For the purposes of this subsection, "names of legislators, and their contact information" includes each legislator's position (senator or representative), first name, last name, party affiliation (for example, Democrat or Republican), city or town they live in, office phone number, and office email address~~)).

Sec. 3. RCW 29A.64.090 and 2016 c 204 s 1 are each amended to read as follows:

When the official canvass of returns of any election reveals that the difference in the number of votes cast for the approval of a statewide measure and the number of votes cast for the rejection of such measure is less than two thousand votes and also less than one-half of one percent of the total number of votes cast on such measure, the secretary of state shall direct that a recount of all votes cast on such measure be made on such measure, in the manner provided by RCW 29A.64.041 and 29A.64.061, and the cost of such recount will be at state expense. ((~~This section does not apply to any statewide advisory vote of the people that was placed on the ballot pursuant to RCW 43.135.041 and the secretary of state shall not direct any recount for any statewide advisory vote of the people.~~))

Sec. 4. RCW 29A.72.040 and 2008 c 1 s 7 are each amended to read as follows:

The secretary of state shall give a serial number to each initiative, referendum bill, or referendum measure, ((~~or measure for an advisory vote of the people,~~)) using a separate series for initiatives to the legislature, initiatives to the people, referendum bills, and referendum measures, ((~~and measures for an advisory vote of the people,~~)) and forthwith transmit one copy of the measure proposed bearing its serial number to the attorney general. Thereafter a measure shall be known and designated on all petitions, ballots, and proceedings as "Initiative Measure No. . . . .," "Referendum Bill No. . . . .," or "Referendum Measure No. . . . .((~~;~~)).," ((~~or "Advisory Vote No. . . . . ."~~))

Sec. 5. RCW 29A.72.250 and 2013 c 11 s 75 are each amended to read as follows:

If a referendum or initiative petition for submission of a measure to the people is found sufficient, the secretary of state shall at the time and in the manner that he or she certifies to the county auditors of the various counties the names of candidates for state and district officers certify to each county auditor the serial numbers and ballot titles of the several initiative and referendum measures ((~~and serial numbers and short descriptions of measures submitted for~~

~~an advisory vote of the people~~)) to be voted upon at the next ensuing general election or special election ordered by the legislature.

Sec. 6. RCW 29A.72.290 and 2022 c 114 s 4 are each amended to read as follows:

The county auditor of each county shall print the serial numbers, ballot titles, and public investment impact disclosures certified by the secretary of state on the official ballots for the election at which initiative and referendum measures ((~~and measures for an advisory vote of the people~~)) are to be submitted to the people for their approval or rejection((~~, the serial numbers, ballot titles, and public investment impact disclosures certified by the secretary of state and the serial numbers and short descriptions of measures for an advisory vote of the people~~)). They must appear under separate headings in the order of the serial numbers as follows:

(1) Initiatives to the people;

(2) Referendum measures;

(3) Referendum bills;

(4) Initiatives to the legislature;

(5) Initiatives to the legislature and legislative alternatives;

(6) ((~~Advisory votes;~~

~~(7)~~)) Proposed constitutional amendments.

NEW SECTION. **Sec. 7.** The following acts or parts of acts are each repealed:

(1) RCW 29A.72.283 (Advisory vote on tax legislation—Short description) and 2008 c 1 s 8;

(2) RCW 29A.72.285 (Advisory vote on tax legislation—Short description filing and transmittal) and 2008 c 1 s 9; and

(3) RCW 43.135.041 (Tax legislation—Advisory vote—Duties of the attorney general and secretary of state—Exemption) and 2016 c 1 s 5, 2013 c 1 s 6, 2010 c 4 s 3, & 2008 c 1 s 6.

PART III
INFORMATION REGARDING STATE TAX REVENUE

Sec. 8. RCW 29A.32.031 and 2020 c 208 s 11 are each amended to read as follows:

The voters' pamphlet published or distributed under RCW 29A.32.010 must contain:

(1) Information about ((~~each measure for an advisory vote of the people and~~)) each ballot measure initiated by or referred to the voters for their approval or rejection as required by RCW 29A.32.070;

(2) In even-numbered years, statements, if submitted, from candidates for the office of president and vice president of the United States, United States senator, United States representative, governor, lieutenant governor, secretary of state, state treasurer, state auditor, attorney general, commissioner of public lands, superintendent of public instruction, insurance commissioner, state senator, state representative, justice of the supreme court, judge of the court of appeals, or judge of the superior court. Candidates may also submit campaign contact information and a photograph not more than five years old in a format that the secretary of state determines to be suitable for reproduction in the voters' pamphlet;

(3) In odd-numbered years, if any office voted upon statewide appears on the ballot due to a vacancy, then statements and photographs for candidates for any vacant office listed in subsection (2) of this section must appear;

(4) Contact information for the public disclosure commission established under RCW 42.17A.100, including the following statement: "For a list of the people and organizations that donated to state and local candidates and ballot measure campaigns, visit www.pdc.wa.gov." The statement must be placed in a prominent position, such as on the cover or on the first two pages of the voters' pamphlet. The secretary of state may substitute such language as is necessary for accuracy and clarity and consistent with the intent of this section;

(5) Contact information for major political parties;

(6) A brief statement explaining the deletion and addition of language for proposed measures under RCW 29A.32.080;

(7) A list of all student engagement hubs as designated under RCW 29A.40.180; ((~~and~~))

(8) A page providing information about how to access the internet presentation of the information created in section 9 of this act about the state budgets, including a uniform resource locator, a quick response code, and a phone number for the legislative information center. The uniform resource locator and quick response codes will lead the voter to the internet information required in section 9 of this act; and

(9) Any additional information pertaining to elections as may be required by law or in the judgment of the secretary of state is deemed informative to the voters.

NEW SECTION. **Sec. 9.** A new section is added to chapter 44.48 RCW to read as follows:

The legislative evaluation and accountability program, in conjunction with the office of financial management, must create a website presentation accessible 24 hours a day beginning August 15th of each year containing the following information:

(1)(a) A summary of each of the following:

(i) The adopted operating budget and supplemental operating budget for the most recent fiscal biennium;

(ii) The adopted capital budget and supplemental capital budget for the most recent fiscal biennium; and

(iii) The adopted transportation budget and supplemental transportation budget for the most recent fiscal biennium;

(b) Every summary required by (a) of this subsection must additionally include:

(i) The numbers of each bill that was part of the budget for that session;

(ii) Access information for each bill on the official legislative website;

(iii) The date that each bill was approved with brief instructions on how to locate roll call votes online; and

(iv) The number of votes cast for and against each bill;

(2) Graphical depictions of funds subject to outlook and a data visualization showing total budgeted funds for the state operating budget by functional areas of government for the most recent biennium;

(3) Tables provided by the office of financial management comparing state and local expenditures with personal income from the most recent fiscal year available to each fiscal year going back 20 years; and

(4) A list, generated by the legislative evaluation and accountability program in coordination with the office of financial management, of every bill for which an analysis was produced in compliance with RCW 43.135.031, and links to the legislative website for each bill on the list so the public may see how legislators voted and instructions for voters on how to locate analyses produced in compliance with RCW 43.135.031.

Passed by the Senate February 8, 2023.
Passed by the House April 7, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 110

[Senate Bill 5084]

SELF-INSURED PENSIONS AND ASSESSMENTS—SEPARATE FUND

AN ACT Relating to creating a separate fund for the purposes of self-insured pensions and assessments; amending RCW 43.84.092, 43.84.092, 51.16.120, 51.32.242, 51.44.070, 51.44.073, 51.44.080, 51.44.100, 51.44.115, 51.44.140, 51.44.142, and 51.44.160; adding a new section to chapter 51.44 RCW; providing effective dates; providing an expiration date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 51.44 RCW to read as follows:

There shall be, in the office of the state treasurer, a fund to be known and designated as the "self-insurance reserve fund."

Sec. 2. RCW 43.84.092 and 2022 c 182 s 403 are each amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf

of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the Alaskan Way viaduct replacement project account, the ambulance transport fund, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the Chehalis basin taxable account, the cleanup settlement account, the climate active transportation account, the climate transit programs account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community services account, the diesel idle reduction account, the drinking water assistance account, the administrative subaccount of the drinking water assistance account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the electric vehicle account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the fair start for kids account, the ferry bond retirement fund, the fish, wildlife, and conservation account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the state higher education construction account, the higher education construction account, the higher education retirement plan supplemental benefit fund, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the hospital safety net assessment fund, the Interstate 405 and state route number 167 express toll lanes account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the limited fish and wildlife account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the

move ahead WA account, the move ahead WA flexible account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pilotage account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound Gateway facility account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the second injury fund, the sexual assault prevention and response account, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state reclamation revolving account, the state route number 520 civil penalties account, the state route number 520 corridor account, the statewide broadband account, the statewide tourism marketing account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the University of Washington bond retirement fund, the University of Washington building account, the voluntary cleanup account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the vulnerable roadway user education account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund,

the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Sec. 3. RCW 43.84.092 and 2022 c 182 s 404 are each amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the Alaskan Way viaduct replacement project account, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the Chehalis basin taxable account, the cleanup settlement account, the climate active transportation account, the climate transit programs account, the Columbia river basin water supply development account, the Columbia river

basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community services account, the diesel idle reduction account, the drinking water assistance account, the administrative subaccount of the drinking water assistance account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the electric vehicle account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the fair start for kids account, the ferry bond retirement fund, the fish, wildlife, and conservation account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the state higher education construction account, the higher education construction account, the higher education retirement plan supplemental benefit fund, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the hospital safety net assessment fund, the Interstate 405 and state route number 167 express toll lanes account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the limited fish and wildlife account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the move ahead WA account, the move ahead WA flexible account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pilotage account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound Gateway facility account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the second injury fund, the sexual assault prevention and response account, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state investment board expense account, the state investment board

commingled trust fund accounts, the state patrol highway account, the state reclamation revolving account, the state route number 520 civil penalties account, the state route number 520 corridor account, the statewide broadband account, the statewide tourism marketing account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the University of Washington bond retirement fund, the University of Washington building account, the voluntary cleanup account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the vulnerable roadway user education account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Sec. 4. RCW 51.16.120 and 2015 c 137 s 1 are each amended to read as follows:

(1) Whenever a worker has a previous bodily disability from any previous injury or disease, whether known or unknown to the employer, and suffers a further disability from injury or occupational disease in employment covered by this title and becomes totally and permanently disabled from the combined effects thereof or dies when death was substantially accelerated by the combined effects thereof, then the experience record of an employer insured with the state fund at the time of the further injury or disease must be charged and a self-

insured employer must pay directly into the self-insurance reserve fund only the accident cost which would have resulted solely from the further injury or disease, had there been no preexisting disability, and which accident cost must be based upon an evaluation of the disability by medical experts. The difference between the charge thus assessed to such employer at the time of the further injury or disease and the total cost of the pension reserve must be assessed against the second injury fund. Except as provided in subsection (2) of this section, the department must pass upon the application of this section in all cases where benefits are paid for total permanent disability or death and issue an order thereon appealable by the employer. Pending outcome of such appeal the transfer or payment must be made as required by such order.

(2) If a self-insured employer is in default or the director has withdrawn the certification of a self-insured employer, the department may not pass on the application of this section. In such cases, the total cost of the pension reserve must first be assessed against the defaulting self-insured employer's deposit required by RCW 51.14.020 and in cases where the surety funds are insufficient the remaining cost of the pension reserve must be assessed against the insolvency trust fund.

(3) The department must, in cases of claims of workers sustaining injuries or occupational diseases in the employ of state fund employers, recompute the experience record of such employers when the claims of workers injured in their employ have been found to qualify for payments from the second injury fund after the regular time for computation of such experience records and the department may make appropriate adjustments in such cases including cash refunds or credits to such employers.

(4) To encourage employment of injured workers who have a developmental disability as defined in RCW 71A.10.020, the department may adopt rules providing for the reduction or elimination of premiums or assessments from employers of such workers and may also adopt rules for the reduction or elimination of charges against their employers in the event of further injury to such workers in their employ.

Sec. 5. RCW 51.32.242 and 2008 c 280 s 3 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, each self-insured employer shall retain from the earnings of each of its workers that amount as shall be fixed from time to time by the director, the basis for measuring said amount to be determined by the director. These moneys shall only be retained from employees and remitted to the department in such manner and at such intervals as the department directs and shall be placed in the self-insured employer overpayment reimbursement fund. The moneys so collected shall be used exclusively for reimbursement to the self-insurance reserve fund and to self-insured employers for benefits overpaid during the pendency of board or court appeals in which the self-insured employer prevails and has not recovered, and shall be no more than necessary to make such payments on a current basis.

(2) None of the amount assessed for the employer overpayment reimbursement fund under this section may be retained from the earnings of workers covered under RCW 51.16.210.

Sec. 6. RCW 51.44.070 and 2018 c 282 s 1 are each amended to read as follows:

For every case resulting in death or permanent total disability the department shall transfer on its books from the accident fund of the proper class and/or appropriate account to the "reserve fund" a sum of money for that case equal to the estimated present cash value of the monthly payments provided for it, to be calculated upon the basis of an annuity covering the payments in this title provided to be made for the case. Such annuity values shall be based upon rates of mortality, disability, remarriage, and interest as determined by the department, taking into account the experience of the reserve fund and self-insurance reserve fund in such respects.

Sec. 7. RCW 51.44.073 and 2018 c 282 s 2 are each amended to read as follows:

(1) For every case resulting in death or permanent total disability, a self-insurer in these circumstances shall pay into the self-insurance reserve fund a sum of money for that case equal to the estimated present cash value of the monthly payments provided for it, to be calculated upon the basis of an annuity covering the payments in this title provided to be made for the case. Such annuity values shall be based upon rates of mortality, disability, remarriage, and interest as determined by the department, taking into account the experience of the reserve fund and self-insurance reserve fund in such respects.

(2) As an alternative to payment procedures otherwise provided under law, in the event of death or permanent total disability to workers of self-insured employers, a self-insured employer may upon establishment of such obligation file with the department a bond, an assignment of account from a federally or state chartered commercial banking institution authorized to conduct business in the state of Washington, or purchase an annuity, in an amount deemed by the department to be reasonably sufficient to insure payment of the pension benefits provided by law. Any purchase of an annuity shall be from an institution meeting the following minimum requirements: (a) The institution must be rated no less than "A+" by A.M. Best, and no less than "AA" by Moody's and by Standard & Poor's; (b) the value of the assets of the institution must not be less than ten billion dollars; (c) not more than ten percent of the institution's assets may include bonds that are rated less than "BBB" by Moody's and Standard & Poor's; (d) not more than five percent of the assets may be held as equity in real estate; and (e) not more than twenty-five percent of the assets may be first mortgages, and not more than five percent may be second mortgages. The department shall adopt rules governing assignments of account and annuities. Such rules shall ensure that the funds are available if needed, even in the case of failure of the banking institution, the institution authorized to provide annuities, or the employer's business.

The annuity value for every such case shall be determined by the department based upon the department's experience as to rates of mortality, disability, remarriage, and interest. The amount of the required bond, assignment of account, or annuity may be reviewed and adjusted periodically by the department, based upon periodic redeterminations by the department as to the outstanding annuity value for the case.

Under such an alternative, the department shall administer the payment of this obligation to the beneficiary or beneficiaries. The department shall be

reimbursed for all such payments from the self-insured employer through periodic charges not less than quarterly in a manner to be determined by the director. The self-insured employer shall additionally pay to the department a deposit equal to the first three months' payments otherwise required under RCW 51.32.050 and 51.32.060. Such deposit shall be placed in the self-insurance reserve fund in accordance with RCW 51.44.140 and shall be returned to the respective self-insured employer when monthly payments are no longer required for such particular obligation.

If a self-insurer delays or refuses to reimburse the department beyond fifteen days after the reimbursement charges become due, there shall be a penalty paid by the self-insurer upon order of the director of an additional amount equal to twenty-five percent of the amount then due which shall be paid into the ((~~pension~~)) self-insurance reserve fund. Such an order shall conform to the requirements of RCW 51.52.050.

Sec. 8. RCW 51.44.080 and 1989 c 190 s 2 are each amended to read as follows:

The department shall notify the state treasurer from time to time, of ((~~such~~)) transfers as a whole from the state fund to the reserve fund and from self-insured employers to the self-insurance reserve fund and the interest or other earnings of the reserve fund shall become a part of the reserve fund itself. Interest or other earnings of the self-insurance reserve fund shall become a part of the self-insurance reserve fund itself. As soon as possible after June 30th of each year the department shall expert the reserve fund and self-insurance reserve fund separately to ascertain ((~~its~~)) the standing of the funds as of June 30th of that year and the relation of ((~~its~~)) the outstanding annuities at their then value to the cash on hand or at interest belonging to the ((~~fund~~)) funds. The department shall promptly report the result of the ((~~examination~~)) examinations to the state treasurer in writing not later than September 30th following. If the report shows that there was on said June 30th, in the reserve fund or self-insurance reserve fund in cash or at interest, a greater sum than the then annuity value of the outstanding pension obligations, the surplus in the reserve fund shall be forthwith turned over to the state fund and the surplus in the self-insurance reserve fund shall be forthwith turned over to the appropriate self-insured employer accounts under RCW 51.44.140 but, if the report shows the contrary condition ((~~of the reserve fund~~)), the deficiency of the reserve fund shall be forthwith made good out of the state fund and the deficiency in the self-insurance fund shall be made good from the appropriate self-insured employer accounts under RCW 51.44.140.

Sec. 9. RCW 51.44.100 and 2011 1st sp.s. c 37 s 602 are each amended to read as follows:

Whenever, in the judgment of the state investment board, there shall be in the accident fund, medical aid fund, reserve fund, self-insurance reserve fund, industrial insurance rainy day fund, or the supplemental pension fund, funds in excess of that amount deemed by the state investment board to be sufficient to meet the current expenditures properly payable therefrom, the state investment board may invest and reinvest such excess funds in the manner prescribed by RCW 43.84.150, and not otherwise.

The state investment board may give consideration to the investment of excess funds in federally insured student loans made to persons in vocational training or retraining or reeducation programs. The state investment board may make such investments by purchasing from savings and loan associations, commercial banks, mutual savings banks, credit unions and other institutions authorized to be lenders under the federally insured student loan act, organized under federal or state law and operating in this state loans made by such institutions to residents of the state of Washington particularly for the purpose of vocational training or reeducation: PROVIDED, That the state investment board shall purchase only that portion of any loan which is guaranteed or insured by the United States of America, or by any agency or instrumentality of the United States of America: PROVIDED FURTHER, That the state investment board is authorized to enter into contracts with such savings and loan associations, commercial banks, mutual savings banks, credit unions, and other institutions authorized to be lenders under the federally insured student loan act to service loans purchased pursuant to this section at an agreed upon contract price.

Sec. 10. RCW 51.44.115 and 2005 c 387 s 1 are each amended to read as follows:

(1) The department shall:

(a) Prepare financial statements on the state fund in accordance with generally accepted accounting principles, including but not limited to financial statements on the accident fund, the medical aid fund, the pension reserve fund, the self-insurance reserve fund, the supplemental pension fund, and the second injury fund. Statements must be presented separately by fund and in the aggregate; and

(b) Prepare financial information for the accident fund, medical aid fund, ((~~and~~)) pension reserve fund, and self-insurance reserve fund based on statutory accounting practices and principles promulgated by the national association of insurance commissioners for the purpose of maintaining actuarial solvency of these funds.

(2) Beginning in 2006, and, to avoid duplication, coordinated with any audit that may be conducted under RCW 43.09.310, the state auditor shall conduct annual audits of the state fund. As part of the audits required under this section, the state auditor may contract with firms qualified to perform all or part of the financial audit, as necessary.

(a) The firm or firms conducting the reviews shall be familiar with the accounting standards applicable to the accounts under review and shall have experience in workers' compensation reserving, discounting, and rate making.

(b) The scope of the financial audit shall include, but is not limited to:

(i) An opinion on whether the financial statements were prepared in accordance with generally accepted accounting principles;

(ii) An assessment of the financial impact of the proposed rate level on the actuarial solvency of the accident, medical aid, and pension reserve funds, taking into consideration the risks inherent with insurance and the effects of the actuarial assumptions, discount rates, reserving, retrospective rating program, refunds, and individual employer rate classes, as well as the standard accounting principles used for insurance underwriting purposes; and

(iii) A statement of actuarial opinion on whether the loss and loss adjustment expense reserves for the accident, medical aid, and pension reserve funds were prepared in accordance with generally accepted actuarial principles.

(c) The department shall cooperate with the state auditor in all respects and shall permit the state auditor full access to all information deemed necessary for a true and complete review.

(d) The cost of the audit shall be paid by the state fund under separate contract.

(3) The state auditor shall issue an annual report to the governor, the leaders of the majority and minority caucuses in the senate and the house of representatives, the director of the office of financial management, and the director of the department, on the results of the financial audit and reviews, within six months of the end of the fiscal year. The report may include recommendations.

(4) The audit report shall be available for public inspection.

(5) Within ninety days after the state auditor completes and delivers to the appropriate authority an audit under subsection (2) of this section, the director of the department shall notify the state auditor in writing of the measures taken and proposed to be taken, if any, to respond to the recommendations of the audit report. The state auditor may extend the ninety-day period for good cause.

Sec. 11. RCW 51.44.140 and 2018 c 282 s 3 are each amended to read as follows:

Each self-insurer shall make such deposits, into the self-insurance reserve fund, as the department shall require pursuant to RCW 51.44.073, as are necessary to guarantee the payments of the pensions established pursuant to RCW 51.32.050 and 51.32.060.

Each self-insurer shall have an account within the self-insurance reserve fund. Each such account shall be credited with its proportionate share of interest or other earnings as determined in RCW 51.44.080.

Each such account in the self-insurance reserve fund shall be experted as required in RCW 51.44.080. Any surpluses shall be forthwith returned to the respective self-insurers, and each deficit shall forthwith be made good to the self-insurance reserve fund by the self-insurer.

Sec. 12. RCW 51.44.142 and 2008 c 280 s 4 are each amended to read as follows:

The self-insured employer overpayment reimbursement fund is created in the custody of the state treasurer. Expenditures from the account may be used only for reimbursing the self-insurance reserve fund and self-insured employers for benefits overpaid during the pendency of board or court appeals in which the self-insured employer prevails and has not recovered. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

Sec. 13. RCW 51.44.160 and 1975 1st ex.s. c 224 s 17 are each amended to read as follows:

The director is authorized to make periodic temporary interfund transfers between the reserve, self-insurance reserve, and supplemental pension funds as may be necessary to provide for payments from the supplemental pension fund

as prescribed in this title. At least once annually, the director shall cause an audit to be made of all pension funds administered by the department to insure that proper crediting of funds has been made, and further to direct transfers between the funds for any interfund loans which may have been made in the preceding year and not fully reimbursed.

NEW SECTION. **Sec. 14.** Section 2 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2023.

NEW SECTION. **Sec. 15.** Section 2 of this act expires July 1, 2024.

NEW SECTION. **Sec. 16.** Section 3 of this act takes effect July 1, 2024.

NEW SECTION. **Sec. 17.** Sections 1 and 4 through 13 of this act take effect July 1, 2025.

Passed by the Senate March 8, 2023.
Passed by the House April 6, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 111

[Senate Bill 5131]

DEPARTMENT OF CORRECTIONS—MONEY RECEIVED FOR INCARCERATED PERSON—DEDUCTIONS

AN ACT Relating to money received by the department of corrections on behalf of inmates from family or other outside sources for the purchase of commissary items; and amending RCW 72.09.480.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 72.09.480 and 2015 c 238 s 1 are each amended to read as follows:

(1) Unless the context clearly requires otherwise, the definitions in this section apply to this section.

(a) "Cost of incarceration" means the cost of providing an inmate with shelter, food, clothing, transportation, supervision, and other services and supplies as may be necessary for the maintenance and support of the inmate while in the custody of the department, based on the average per inmate costs established by the department and the office of financial management.

(b) "Minimum term of confinement" means the minimum amount of time an inmate will be confined in the custody of the department, considering the sentence imposed and adjusted for the total potential earned early release time available to the inmate.

(c) "Program" means any series of courses or classes necessary to achieve a proficiency standard, certificate, or postsecondary degree.

(2) When an inmate, except as provided in subsections (4) ((~~and (8)~~)) through (10) of this section, receives any funds in addition to his or her wages or gratuities, except settlements or awards resulting from legal action, the additional funds shall be subject to the following deductions and the priorities established in chapter 72.11 RCW:

(a) Five percent to the crime victims' compensation account provided in RCW 7.68.045;

(b) Ten percent to a department personal inmate savings account;

(c) Twenty percent for payment of legal financial obligations for all inmates who have legal financial obligations owing in any Washington state superior court;

(d) Twenty percent for any child support owed under a support order;

(e) Twenty percent to the department to contribute to the cost of incarceration; and

(f) Twenty percent for payment of any civil judgment for assault for all inmates who are subject to a civil judgment for assault in any Washington state court or federal court.

(3) When an inmate, except as provided in subsection ((~~(9)~~)) (10) of this section, receives any funds from a settlement or award resulting from a legal action, the additional funds shall be subject to the deductions in RCW 72.09.111(1)(a) and the priorities established in chapter 72.11 RCW.

(4) When an inmate who is subject to a child support order receives funds from an inheritance, the deduction required under subsection (2)(e) and (f) of this section shall only apply after the child support obligation has been paid in full.

(5) The amount deducted from an inmate's funds under subsection (2) of this section shall not exceed the department's total cost of incarceration for the inmate incurred during the inmate's minimum or actual term of confinement, whichever is longer.

(6)(a) The deductions required under subsection (2) of this section shall not apply to funds received by the department from an offender or from a third party on behalf of an offender for payment of education or vocational programs or postsecondary education degree programs as provided in RCW 72.09.460 and 72.09.465.

(b) The deductions required under subsection (2) of this section shall not apply to funds received by the department from a third party, including but not limited to a nonprofit entity on behalf of the department's education, vocation, or postsecondary education degree programs.

(7) The deductions required under subsection (2) of this section shall not apply to any money received by the department, on behalf of an inmate, from family or other outside sources for the payment of postage expenses. Money received under this subsection may only be used for the payment of postage expenses and may not be transferred to any other account or purpose. Money that remains unused in the inmate's postage fund at the time of release shall be subject to the deductions outlined in subsection (2) of this section.

(8) The deductions required under subsection (2) of this section do not apply to any money received by the department on behalf of an inmate from family or other outside sources for the payment of certain medical expenses. Money received under this subsection may only be used for the payment of medical expenses associated with the purchase of eyeglasses, over-the-counter medications, and offender copayments. Funds received specifically for these purposes may not be transferred to any other account or purpose. Money that remains unused in the inmate's medical fund at the time of release is subject to deductions under subsection (2) of this section.

(9) The deductions required under subsection (2) of this section do not apply to any money received by the department on behalf of an inmate from family or other outside sources for the purchase of commissary items. Money received under this subsection may only be used for the purchase of items on the facility commissary list. The amount received by each inmate under this subsection may not exceed the monthly allowance for commissary purchases as allowed by the department. Funds received specifically for these purposes may not be transferred to any other fund, account, or purpose. Money that remains unused in the inmate's commissary fund at the time of release is subject to deductions under subsection (2) of this section.

(10) Inmates sentenced to life imprisonment without possibility of release or sentenced to death under chapter 10.95 RCW receives funds, deductions are required under subsection (2) of this section, with the exception of a personal inmate savings account under subsection (2)(b) of this section.

(((~~(10)~~))) (11) The secretary of the department of corrections, or his or her designee, may exempt an inmate from a personal inmate savings account under subsection (2)(b) of this section if the inmate's earliest release date is beyond the inmate's life expectancy.

(((~~(11)~~))) (12) The interest earned on an inmate savings account created as a result of the plan in section 4, chapter 325, Laws of 1999 shall be exempt from the mandatory deductions under this section and RCW 72.09.111.

(((~~(12)~~))) (13) Nothing in this section shall limit the authority of the department of social and health services division of child support, the county clerk, or a restitution recipient from taking collection action against an inmate's moneys, assets, or property pursuant to chapter 9.94A, 26.23, 74.20, or 74.20A RCW including, but not limited to, the collection of moneys received by the inmate from settlements or awards resulting from legal action.

Passed by the Senate March 3, 2023.
Passed by the House April 6, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 112

[Engrossed Substitute Senate Bill 5217]

WORK-RELATED MUSCULOSKELETAL INJURIES AND DISORDERS—RULEMAKING

AN ACT Relating to the state's ability to regulate certain industries and risk classifications to prevent musculoskeletal injuries and disorders; amending RCW 49.17.020; adding new sections to chapter 49.17 RCW; creating a new section; and repealing RCW 49.17.360 and 49.17.370.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature finds that the absence of the department of labor and industries' authority to regulate working practices to prevent musculoskeletal injuries and disorders has contributed to excess and avoidable claims and costs across the workers' compensation system for all employers in Washington, including those employers who maintain safer workplaces without high incidents of musculoskeletal injuries and disorders.

(2) The legislature finds that work-related musculoskeletal injuries and disorders account for at least one-third of all workers' compensation claims that

result in time loss and wage replacement; are more severe than the average nonfatal injury or illness; and are a common cause of long-term disability in Washington state.

(3) The legislature finds that many of Washington state's critical industries, including health care, are described by the federal bureau of labor statistics as high-risk industries for musculoskeletal injuries. These are also industries that are currently experiencing significant staffing shortages. Further, these injuries lead to high employer costs including absenteeism, decreased productivity, and increased costs for health care, disability, and workers' compensation, among other costs.

(4) The legislature therefore intends to repeal the prohibition on regulating working practices related to musculoskeletal injuries and disorders, thereby allowing targeted safety efforts to more effectively and efficiently prevent these workplace injuries. By removing this barrier, the legislature will restore the state's ability to more strategically address important workplace safety issues and reduce costs for all employers and workers.

NEW SECTION. **Sec. 2.** The following acts or parts of acts are each repealed:

(1) RCW 49.17.360 (Ergonomics Initiative—Intent) and 2004 c 1 s 1; and

(2) RCW 49.17.370 (Ergonomics Initiative—Definition—Rule repeal) and 2004 c 1 s 2.

Sec. 3. RCW 49.17.020 and 2010 c 8 s 12005 are each amended to read as follows:

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

(1) ((~~The term "agriculture"~~)) (a) "Agriculture" means farming and includes, but is not limited to:

(((~~(a)~~))) (i) The cultivation and tillage of the soil;

(((~~(b)~~))) (ii) Dairying;

(((~~(c)~~))) (iii) The production, cultivation, growing, and harvesting of any agricultural or horticultural commodity;

(((~~(d)~~))) (iv) The raising of livestock, bees, fur-bearing animals, or poultry; and

(((~~(e)~~))) (v) Any practices performed by a farmer or on a farm, incident to or in connection with such farming operations, including but not limited to preparation for market and delivery to:

(((~~(i)~~))) (A) Storage;

(((~~(ii)~~))) (B) Market; or

(((~~(iii)~~))) (C) Carriers for transportation to market.

((~~The term "agriculture"~~)) (b) "Agriculture" does not mean a farmer's processing for sale or handling for sale a commodity or product grown or produced by a person other than the farmer or the farmer's employees.

(2) ((~~The term "director"~~)) "Director" means the director of the department of labor and industries, or his or her designated representative.

(3) ((~~The term "department"~~)) "Department" means the department of labor and industries.

(4) ((~~The term "employer"~~)) "Employer" means any person, firm, corporation, partnership, business trust, legal representative, or other business

entity which engages in any business, industry, profession, or activity in this state and employs one or more employees or who contracts with one or more persons, the essence of which is the personal labor of such person or persons and includes the state, counties, cities, and all municipal corporations, public corporations, political subdivisions of the state, and charitable organizations: PROVIDED, That any person, partnership, or business entity not having employees, and who is covered by the industrial insurance act ((~~shall~~)) must be considered both an employer and an employee.

(5) ((~~The term "employee"~~)) "Employee" means an employee of an employer who is employed in the business of his or her employer whether by way of manual labor or otherwise and every person in this state who is engaged in the employment of or who is working under an independent contract the essence of which is his or her personal labor for an employer under this chapter whether by way of manual labor or otherwise.

(6) ((~~The term "person"~~)) "Person" means one or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or any organized group of persons.

(7) ((~~The term "safety and health standard"~~)) "Risk classification" means any classification defined in chapter 296-17A WAC classifications for Washington workers' compensation insurance.

(8) "Safety and health standard" means a standard which requires the adoption or use of one or more practices, means, methods, operations, or processes reasonably necessary or appropriate to provide safe or healthful employment and places of employment.

(((~~(8) The term "workplace"~~)) (9) "Workplace" means any plant, yard, premises, room, or other place where an employee or employees are employed for the performance of labor or service over which the employer has the right of access or control, and includes, but is not limited to, all workplaces covered by industrial insurance under Title 51 RCW, as now or hereafter amended.

(((~~(9) The term "working day"~~)) (10) "Working day" means a calendar day, except Saturdays, Sundays, and all legal holidays as set forth in RCW 1.16.050, as now or hereafter amended, and for the purposes of the computation of time within which an act is to be done under the provisions of this chapter, ((~~shall~~)) must be computed by excluding the first working day and including the last working day.

(11) "Work-related musculoskeletal injuries and disorders" means injuries or disorders of the muscles, nerves, tendons, joints, cartilage, and spinal discs associated with exposure to risk factors in the workplace. Musculoskeletal injuries and disorders include sprains, strains, tears, back pain, soreness, pain, carpal tunnel syndrome, musculoskeletal system or connective tissue diseases and disorders when the event or exposure leading to the injury or illness is bodily reaction from bending, climbing, crawling, reaching, twisting, sitting, or standing; being rubbed or abraded by kneeling on a surface; being rubbed, abraded, or jarred by vibration; overexertion; or repetition. The department may update this definition in accordance with changes to the United States department of labor's definition or updates to the United States bureau of labor statistics' occupational injury and illness classification system.

NEW SECTION. **Sec. 4.** A new section is added to chapter 49.17 RCW to read as follows:

(1) The department may adopt rules related to preventing musculoskeletal injuries and disorders that provide standards for an industry or risk classification, subject to the limits in this section.

(2)(a) Within a 12-month period, the department may not adopt more than one set of rules related to preventing musculoskeletal injuries and disorders for an industry or risk classification that previously did not have rules related to preventing musculoskeletal injuries and disorders. The rules would apply to an establishment engaged in activities as defined by the industry or risk classification.

(b) Subject to subsection (10) of this section, the department may not adopt emergency rules under chapter 34.05 RCW related to preventing musculoskeletal injuries and disorders for an industry or risk classification that previously did not have rules related to preventing musculoskeletal injuries and disorders.

(3)(a) Rules providing standards may only be adopted for industries or risk classifications where compensable workers' compensation claims involved musculoskeletal injuries and disorders at a rate greater than two times the overall state workers' compensation compensable claim rate for musculoskeletal injuries and disorders over a recent five-year period.

(b) When adopting rules by industry subsector at the three-digit level, the department must exclude from regulation North American industry classification system industry group at the four-digit level and industry classification at the five-digit level within the industry subsector that have a musculoskeletal injuries and disorders rate less than two times the overall state workers' compensation compensable claim rate for musculoskeletal injuries and disorders over a recent five-year period.

(c) When adopting rules by industry group at the four-digit level, the department must exclude from regulation North American industry classification system industry classifications at the five-digit level within the industry group that have a musculoskeletal injuries and disorders rate less than two times the overall state workers' compensation compensable claim rate for musculoskeletal injuries and disorders over a recent five-year period.

(d) When adopting rules by risk classification at the four-digit level, the department must exclude six-digit risk classifications within the four-digit risk classification if they have a musculoskeletal injuries and disorders rate less than two times the overall state workers' compensation compensable claim rate for musculoskeletal injuries and disorders over a recent five-year period.

(e) When selecting an industry or risk classification from the list established for potential rule making in section 4(8)(a) of this act, the department shall consider if the industry is demonstrating a statistical downward trend in the claims rates that is greater than the statewide average.

(4) Within 90 days of the department filing a preproposal statement of inquiry (CR-101) for industry or risk classifications specific rules related to preventing musculoskeletal injuries and disorders, the department must provide a report to the appropriate committees of the legislature. The report must include the criteria the department used to select the industry or rate risk classification that will be subject to the rules and a description of the rule-making procedures under chapter 34.05 RCW which the department will follow for the specific rules.

(5) During rule making, the department must consider including options for an employer to demonstrate alternative control methods where:

(a) The alternative methods are at least as effective as the rule requirements;

(b) Affected employees are trained and monitored for compliance; and

(c) The employer has documented all efforts.

(6) When filing a preproposal statement of inquiry (CR-101) for industry or risk classification specific rules related to preventing musculoskeletal injuries and disorders, the department must include the convening of an advisory committee comprised of equal representatives of employers and workers from the industry or risk classification that will be subject to the rules.

(7) During rule making under this section, the department must solicit input on the effective date to specify in the order of adoption under RCW 34.05.380. The effective date may not be less than 120 days after adoption and no rule may be effective prior to July 1, 2026.

(8) Annually by November, the department must:

(a) Publish a list of industries and risk classifications eligible for rule making under this section. The list must identify low priority industries and risk classifications for whom the statistical trend suggests the industry or risk classification will have a rate lower than two times the state average in the next three years. The list must include compensable claims over the five calendar year period that ended two calendar years before the report is published; and

(b) Conduct a review of the compensable workers' compensation claims data identified in (a) of this subsection to ensure that the data only reflects injuries or disorders consistent with work-related musculoskeletal injuries or disorders as defined by this act, and publish the results of that review.

(c) Each year the department shall identify a list of industries or risk classes most likely to be selected for future rule making and prioritize efforts to provide technical assistance to those employers.

(9) For employee home offices, the director does not have the authority to adopt any new or amended rules dealing with musculoskeletal injuries and disorders, or that deal with the same or similar activities as the rules which were repealed in former RCW 49.17.370 for employee home offices, until and to the extent comparable rules applying to employee home offices are required by congress or the federal occupational safety and health administration.

(10) Limits on rule making in this section do not apply to rules adopted or amended where required by the federal occupational safety and health administration.

(11) For the purposes of this section, "industry" means any classification in the North American industry classification system that defines an industry subsector at the three-digit level, industry group at the four-digit level, and industry at the five-digit level.

(12) The department must provide up to three additional ergonomists to provide consultation to employers in the industries and risk classifications in the list published under subsection (8)(a) of this section. Funding for the additional ergonomists must be paid from the accident and medical aid funds.

NEW SECTION. **Sec. 5.** A new section is added to chapter 49.17 RCW to read as follows:

(1) The director is authorized, in the director's discretion, to provide funding to employers to purchase additional equipment that may be needed to comply

with a rule adopted under section 4 of this act. The maximum amount of funding each year is two percent of the premiums paid into the accident fund in the prior year from employers subject to a rule adopted under section 4 of this act.

(2) Only employers who pay premiums to the state fund as defined in RCW 51.08.175 and are subject to a rule adopted under section 4 of this act are eligible for funding under this section.

(3) An appropriation is not required for these expenditures.

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

Passed by the Senate March 1, 2023.
Passed by the House April 7, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 113

[Senate Bill 5228]

BEHAVIORAL HEALTH DISORDERS—OCCUPATIONAL THERAPY SERVICES COVERAGE

AN ACT Relating to providing occupational therapy services for persons with behavioral health disorders; amending RCW 71.24.385; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 71.24.385 and 2022 c 94 s 1 are each amended to read as follows:

(1) Within funds appropriated by the legislature for this purpose, behavioral health administrative services organizations and managed care organizations, as applicable, shall develop the means to serve the needs of people:

(a) With mental disorders residing within the boundaries of their regional service area. Elements of the program may include:

(i) Crisis diversion services;

(ii) Evaluation and treatment and community hospital beds;

(iii) Residential treatment;

(iv) Programs for intensive community treatment;

(v) Outpatient services, including family support;

(vi) Peer support services;

(vii) Community support services;

(viii) Resource management services;

(ix) Occupational therapy;

(x) Partial hospitalization and intensive outpatient programs for persons under 21 years of age; and

((~~(x)~~)) (xi) Supported housing and supported employment services.

(b) With substance use disorders and their families, people incapacitated by alcohol or other psychoactive chemicals, and intoxicated people.

(i) Elements of the program shall include, but not necessarily be limited to, a continuum of substance use disorder treatment services that includes:

(A) Withdrawal management;

(B) Residential treatment; and

(C) Outpatient treatment.

(ii) The program may include peer support, supported housing, supported employment, crisis diversion, recovery support services, occupational therapy, or technology-based recovery supports.

(iii) The authority may contract for the use of an approved substance use disorder treatment program or other individual or organization if the director considers this to be an effective and economical course to follow.

(2)(a) The managed care organization and the behavioral health administrative services organization shall have the flexibility, within the funds appropriated by the legislature for this purpose and the terms of their contract, to design the mix of services that will be most effective within their service area of meeting the needs of people with behavioral health disorders and avoiding placement of such individuals at the state mental hospital. Managed care organizations and behavioral health administrative services organizations are encouraged to maximize the use of evidence-based practices and alternative resources with the goal of substantially reducing and potentially eliminating the use of institutions for mental diseases.

(b) Managed care organizations and behavioral health administrative services organizations may allow reimbursement to providers for services delivered through a partial hospitalization or intensive outpatient program. Such payment and services are distinct from the state's delivery of wraparound with intensive services under the *T.R. v. Strange and Birch* settlement agreement.

(3)(a) Treatment provided under this chapter must be purchased primarily through managed care contracts.

(b) Consistent with RCW 71.24.580, services and funding provided through the criminal justice treatment account are intended to be exempted from managed care contracting.

NEW SECTION. **Sec. 2.** By June 30, 2024, the Washington state health care authority shall expand coverage in the state medicaid program to ensure that licensed or certified behavioral health agencies are reimbursed by managed care organizations for the medically necessary occupational therapy needs of their clients.

Passed by the Senate March 7, 2023.
Passed by the House April 7, 2023.
Approved by the Governor April 20, 2023.
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CHAPTER 114

[Engrossed Second Substitute Senate Bill 5236]

HOSPITAL STAFFING—VARIOUS PROVISIONS

AN ACT Relating to improving workplace standards for certain hospital staff by expanding staffing committees to include additional nursing staff, modifying staffing committee requirements, and clarifying standards and enforcement regarding mandatory overtime and uninterrupted meal and rest breaks; amending RCW 70.41.410, 70.41.420, 70.41.425, 70.41.130, 49.12.480, 49.28.140, and 49.28.150; adding a new section to chapter 43.70 RCW; adding a new section to chapter 70.41 RCW; adding new sections to chapter 49.12 RCW; creating a new section; repealing 2017 c 249 s 4 (uncodified); prescribing penalties; providing effective dates; providing an expiration date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 43.70 RCW to read as follows:

(1) The department, in consultation with the department of labor and industries, must establish an advisory committee on hospital staffing by September 1, 2023.

(2) Appointments to the advisory committee on hospital staffing shall be jointly made by the secretary and the director of labor and industries. Members of the committee must have expertise in hospital staffing and working conditions and should reflect a diversity of hospital settings.

(3) The advisory committee membership includes:

(a) Six members representing hospitals and hospital systems and their alternates, selected from a list of nominees submitted by the Washington state hospital association; and

(b) Six members representing frontline hospital patient care staff and their alternates, selected from a list of nominees submitted by collective bargaining representatives of frontline hospital nursing staff.

(4) Any list submitted to the departments for the initial appointment under this section must be provided by August 4, 2023.

(5) If any member of the advisory committee is unable to continue to serve on the committee the secretary and the director of labor and industries shall select a new member based on the recommendations of either the hospital association for members appointed under subsection (3)(a) of this section or the collective bargaining representative for members appointed under subsection (3)(b) of this section.

(6) The advisory committee on hospital staffing shall meet at least once per month until the hospital staffing plan uniform form is developed.

(7) The advisory committee on hospital staffing shall advise the department on its development of the uniform hospital staffing plan form.

(8) The department and the department of labor and industries shall provide any necessary documentation to the advisory committee on hospital staffing in advance of the meetings to discuss technical assistance so that the advisory committee may consider areas of needed information.

(9) The advisory committee on hospital staffing must consider innovative hospital staffing and care delivery models, such as those that integrate on-site team-based care delivery, use of patient monitoring equipment and technology, and virtual or remote care delivery. This includes identifying and analyzing innovative hospital staffing and care delivery models including those explored by national organizations and evaluating feasibility of broad-based implementation of identified models. The advisory committee may consider disseminating this information and analysis.

(10) The department and the department of labor and industries must provide the advisory committee on hospital staffing with data on a quarterly basis related to compliance with this chapter, complaint filing and disposition trends, and notification of corrective plans of action plans and adherence to those plans.

(11) By December 1, 2023, the Washington state hospital association shall survey hospitals in Washington state and report to the advisory committee on hospital staffing on Washington hospitals' existing use of innovative hospital staffing and care delivery models including, but not limited to, integration of

patient monitoring equipment, remote patient monitoring, team-based care models, apprenticeship and career ladder programs, and virtual or remote care delivery models, and any challenges with implementing the models.

(12) By December 1, 2024, the advisory committee on hospital staffing must review the report prepared by the Washington state institute for public policy as required by section 15 of this act.

(13) After January 1, 2027, when the forms are developed and effective, the advisory committee on hospital staffing may meet if it is determined by the department of health and committee members that such meetings are necessary.

(14) No earlier than July 1, 2029, the advisory committee on hospital staffing must discuss the issues related to applicability of RCW 70.41.420(7)(b)(i) and (ii) for hospitals listed under RCW 70.41.420(7)(b)(iv). This must include possible data collection options, potential costs, sources of funding, and implementation timeline.

(15) The advisory committee on hospital staffing must advise the department of labor and industries on the department's development by March 1, 2024, of a uniform form for reporting under RCW 49.12.480(2).

(16) This section expires July 1, 2030.

Sec. 2. RCW 70.41.410 and 2008 c 47 s 2 are each amended to read as follows:

The definitions in this section apply throughout this section ((~~and~~)), RCW 70.41.420, and 70.41.425 unless the context clearly requires otherwise.

(1) "Hospital" has the same meaning as defined in RCW 70.41.020, and also includes state hospitals as defined in RCW 72.23.010.

(2) "Hospital staffing committee" means the committee established by a hospital under RCW 70.41.420.

(3) "Intensity" means the level of patient need for nursing care, as determined by the nursing assessment.

((~~(3)~~)) (4) "Nursing assistant-certified" means an individual certified under chapter 18.88A RCW who provides direct care to patients.

(5) "Nursing ((~~personnel~~)) staff" means registered nurses, licensed practical nurses, nursing assistants-certified, and unlicensed assistive nursing personnel providing direct patient care.

((~~(4) "Nurse staffing committee" means the committee established by a hospital under RCW 70.41.420.~~

~~(5)~~)) (6) "Patient care staff" means a person who is providing direct care or supportive services to patients but who is not:

(a) Nursing staff as defined in this section;

(b) A physician licensed under chapter 18.71 or 18.57 RCW;

(c) A physician's assistant licensed under chapter 18.71A RCW; or

(d) An advanced registered nurse practitioner licensed under RCW 18.79.250, unless working as a direct care registered nurse.

(7) "Patient care unit" means any unit or area of the hospital that provides patient care by registered nurses.

((~~(6)~~)) (8) "Reasonable efforts" means that the employer exhausts and documents all of the following but is unable to obtain staffing coverage:

(a) Seeks individuals to consent to work additional time from all available qualified staff who are working;

(b) Contacts qualified employees who have made themselves available to work additional time;

(c) Seeks the use of per diem staff; and

(d) When practical, seeks personnel from a contracted temporary agency when such staffing is permitted by law or an applicable collective bargaining agreement, and when the employer regularly uses a contracted temporary agency.

(9) "Registered nurse" means an individual licensed as a nurse under chapter 18.79 RCW who provides direct care to patients.

(10) "Skill mix" means the experience of, and number and relative percentages of ((~~registered nurses, licensed practical nurses, and unlicensed assistive personnel among the total number of nursing personnel~~)), nursing and patient care staff.

(11) "Unforeseeable emergent circumstance" means:

(a) Any unforeseen declared national, state, or municipal emergency;

(b) When a hospital disaster plan is activated;

(c) Any unforeseen disaster or other catastrophic event that substantially affects or increases the need for health care services; or

(d) When a hospital is diverting patients to another hospital or hospitals for treatment.

Sec. 3. RCW 70.41.420 and 2017 c 249 s 2 are each amended to read as follows:

(1) By ((~~September~~)) January 1, ((~~2008~~)) 2024, each hospital shall establish a ((~~nurse~~)) hospital staffing committee, either by creating a new committee or assigning the functions of ((~~a~~)) the hospital staffing committee to an existing nurse staffing committee ((~~to an existing committee~~)).

(2) Hospital staffing committees must be comprised of:

(a) At least ((~~one half~~)) 50 percent of the voting members of the ((~~nurse~~)) hospital staffing committee shall be ((~~registered nurses~~)) nursing staff, who are nonsupervisory and nonmanagerial, currently providing direct patient care ((~~and up to one half of the members shall be determined by the hospital administration~~)). The selection of the ((~~registered nurses providing direct patient care~~)) nursing staff shall be according to the collective bargaining ((~~agreement~~)) representative or representatives if there is one ((~~in effect~~)) or more at the hospital. If there is no ((~~applicable~~)) collective bargaining ((~~agreement~~)) representative, the members of the ((~~nurse~~)) hospital staffing committee who are ((~~registered nurses~~)) nursing staff providing direct patient care shall be selected by their peers.

((~~(2)~~)) (b) 50 percent of the members of the hospital staffing committee shall be determined by the hospital administration and shall include but not be limited to the chief financial officer, the chief nursing officers, and patient care unit directors or managers or their designees.

(3) Participation in the ((~~nurse~~)) hospital staffing committee by a hospital employee shall be on scheduled work time and compensated at the appropriate rate of pay. ((~~Nurse~~)) Hospital staffing committee members shall be relieved of all other work duties during meetings of the committee. Additional staffing relief must be provided if necessary to ensure committee members are able to attend hospital staffing committee meetings.

((~~(3)~~)) (4) Primary responsibilities of the ((~~nurse~~)) hospital staffing committee shall include:

(a) Development and oversight of an annual patient care unit and shift-based ((~~nurse~~)) hospital staffing plan, based on the needs of patients, to be used as the primary component of the staffing budget. The hospital staffing committee shall use a uniform format or form, created by the department in consultation with the advisory committee established in section 1 of this act and the department of labor and industries, for complying with the requirement to submit the annual staffing plan. The uniform format or form must allow for variations in service offerings, facility design, and other differences between hospitals, but must allow patients and the public to clearly understand and compare staffing plans. Hospitals may include a description of additional resources available to support unit-level patient care and a description of the hospital, including the size and type of facility. Factors to be considered in the development of the plan should include, but are not limited to:

(i) Census, including total numbers of patients on the unit on each shift and activity such as patient discharges, admissions, and transfers;

(ii) ((~~Level of intensity of all patients and nature of the~~)) Patient acuity level, intensity of care needs, and the type of care to be delivered on each shift;

(iii) Skill mix;

(iv) Level of experience and specialty certification or training of nursing ((~~personnel~~)) and patient care staff providing care;

(v) The need for specialized or intensive equipment;

(vi) The architecture and geography of the patient care unit, including but not limited to placement of patient rooms, treatment areas, nursing stations, medication preparation areas, and equipment;

(vii) Staffing guidelines adopted or published by national nursing professional associations, specialty nursing organizations, and other health professional organizations;

(viii) Availability of other personnel and patient care staff supporting nursing services on the unit; and

(ix) ((~~Strategies to enable registered nurses to take meal and rest breaks as required by law or~~)) Compliance with the terms of an applicable collective bargaining agreement, if any, ((~~between the hospital and a representative of the nursing staff~~)) and relevant state and federal laws and rules, including those regarding meal and rest breaks and use of overtime and on-call shifts;

(b) Semiannual review of the staffing plan against patient need and known evidence-based staffing information, including the nursing sensitive quality indicators collected by the hospital; and

(c) Review, assessment, and response to staffing variations or ((~~concerns~~)) complaints presented to the committee.

((~~(4)~~)) (5) In addition to the factors listed in subsection ((~~(3)~~)) (4)(a) of this section, hospital finances and resources must be taken into account in the development of the ((~~nurse~~)) hospital staffing plan.

((~~(5) The staffing plan must not diminish other standards contained in state or federal law and rules, or the terms of an applicable collective bargaining agreement, if any, between the hospital and a representative of the nursing staff.~~))

(6)(a) The committee ((~~will~~)) shall produce the hospital's annual ((~~nurse~~)) hospital staffing plan.

((~~If this staffing plan is not adopted by the hospital, the chief executive officer shall provide a written explanation of the reasons why the plan was not adopted to the committee. The chief executive officer must then either: (a) Identify those elements of the proposed plan being changed prior to adoption of the plan by the hospital or (b) prepare an alternate annual staffing plan that must be adopted by the hospital.~~))

(b) The committee shall propose by a 50 percent plus one vote a draft of the hospital's annual staffing plan which must be delivered to the hospital's chief executive officer or their designee by July 1, 2024, and annually thereafter.

(c) The chief executive officer or their designee must provide written feedback to the hospital staffing committee on the proposed annual staffing plan. The feedback must:

(i) Identify those elements of the proposed staffing plan the chief executive officer requests to be changed to address elements identified by the chief executive officer, including subsection (4)(a) of this section, that could cause the chief executive officer concern regarding financial feasibility, concern regarding temporary or permanent closure of units, or patient care risk; and

(ii) Provide a status report on implementation of the staffing plan including nursing sensitive quality indicators collected by the hospital, patient surveys, and recruitment and retention efforts, including the hospital's success over the previous six months in filling approved open positions for employees covered by the staffing plan.

(d) The committee must review and consider any feedback required under (c)(i) of this subsection prior to approving by a 50 percent plus one vote a revised hospital staffing plan to provide to the chief executive officer.

(e) If this revised proposed staffing plan is not adopted by the hospital, the most recent of the following remains in effect:

(i) The staffing plan that was in effect January 1, 2023; or

(ii) The staffing plan last approved by a 50 percent plus one vote of a duly constituted hospital staffing committee and adopted by the hospital, in accordance with all standards under this section.

(f) Beginning ((~~January 1, 2019~~)) January 1, 2025, each hospital shall submit its final staffing plan to the department and thereafter on an annual basis and at any time in between that the plan is updated.

(7)(a) Beginning ((~~January 1, 2019~~)) July 1, 2025, each hospital shall implement the staffing plan and assign nursing ((~~personnel~~)) staff to each patient care unit in accordance with the plan except in instances of unforeseeable emergent circumstances.

((~~(a)~~)) (b) Each hospital shall document when a patient care unit nursing staff assignment is out of compliance with the adopted hospital staffing plan. For purposes of this subsection, out of compliance means the number of patients assigned to the nursing staff exceeds the patient care unit assignment as directed by the nurse staffing plan. The hospital must adopt written policies and procedures under this subsection no later than October 1, 2024.

(i) Each hospital must report to the department on a semiannual basis the accurate percentage of nurse staffing assignments where the assignment in a patient care unit is out of compliance with the adopted nurse staffing plan.

Beginning in 2026, semiannual reports are due on July 31st and January 31st each year. The first report is due January 31, 2026, and must cover the last six months of 2025.

(ii) Beginning July 1, 2025, if a hospital is in compliance for less than 80 percent of the nurse staffing assignment in a month, the hospital must, within seven calendar days following the end of the month in which the hospital was out of compliance, report to the department regarding lack of compliance with the nurse staffing patient care unit assignments in the hospital staffing plan.

(iii) The department must develop a form or forms for the report to be made under this subsection by October 1, 2024. The form must include a checkbox for either cochair of the hospital staffing committee to indicate their belief that the validity of the report should be investigated by the department. If the checkbox on the form has been checked, the department may initiate an investigation as to the validity of the semiannual report under (b)(i) of this subsection.

(iv) This subsection (7)(b) does not apply to:

(A) Hospitals certified as critical access hospitals;

(B) Hospitals with fewer than 25 acute care licensed beds;

(C) Hospitals certified by the centers for medicare and medicaid services as sole community hospitals that are not owned or operated by a health system that owns or operates more than one acute hospital licensed under chapter 70.41 RCW; and

(D) Hospitals located on an island operating within a public hospital district in Skagit county.

(c) A ((~~registered nurse~~)) nursing staff may report to the hospital staffing committee any variations where the ((~~nurse personnel~~)) nursing staff assignment in a patient care unit is not in accordance with the adopted staffing plan and may make a complaint to the committee based on the variations.

(((~~(b)~~))) (d) Shift-to-shift adjustments in staffing levels required by the plan may be made by the appropriate hospital personnel overseeing patient care operations. If ((~~a registered nurse~~)) nursing staff on a patient care unit objects to a shift-to-shift adjustment, ((~~the registered nurse~~)) the nursing staff may submit the complaint to the hospital staffing committee.

(((~~(c) Staffing~~))) (e) Hospital staffing committees shall develop a process to examine and respond to data submitted under (((~~(a)~~))) (c) and (((~~(b)~~))) (d) of this subsection, including the ability to determine if a specific complaint is resolved or dismissing a complaint based on unsubstantiated data. All written complaints submitted to the hospital staffing committee must be reviewed by the staffing committee, regardless of what format the complainant uses to submit the complaint.

(f) In the event of an unforeseeable emergent circumstance lasting for 15 days or more, the hospital incident command shall report within 30 days to the cochairs of the hospital staffing committee an assessment of the staffing needs arising from the unforeseeable emergent circumstance and the hospital's plan to address those identified staffing needs. Upon receipt of the report, the hospital staffing committee shall convene to develop a contingency staffing plan to address the needs arising from the unforeseeable emergent circumstance. The hospital's deviation from its staffing plan may not be in effect for more than 90 days without the review of the hospital staffing committee. Within 90 days of an initial deviation under this section the hospital must report to the department the

basis for the deviation and must report to the department again once the deviation under this section is no longer in effect.

(g) A direct care registered nurse or direct care nursing assistant-certified may not be assigned by hospitals to a nursing unit or clinical area unless that nurse has first received orientation in that clinical area sufficient to provide competent care to patients in that area and has demonstrated current competence in providing care in that area. The hospital must adopt written policies and procedures under this subsection no later than July 1, 2025.

(8) Each hospital shall post, in a public area on each patient care unit, the ((~~nurse~~)) staffing plan and the ((~~nurse~~)) staffing schedule for that shift on that unit, as well as the relevant clinical staffing for that shift. The staffing plan and current staffing levels must also be made available to patients and visitors upon request. The hospital must also post in a public area on each patient care unit any corrective action plan relevant to that patient care unit as required under RCW 70.41.425(4).

(9) A hospital may not retaliate against or engage in any form of intimidation ((~~of~~)) or otherwise take any adverse action against:

(a) An employee for performing any duties or responsibilities in connection with the ((~~nurse~~)) hospital staffing committee; or

(b) An employee, patient, or other individual who notifies the ((~~nurse~~)) hospital staffing committee or the hospital administration of his or her concerns on nurse staffing.

(10) This section is not intended to create unreasonable burdens on critical access hospitals under 42 U.S.C. Sec. 1395i-4. Critical access hospitals may develop flexible approaches to accomplish the requirements of this section that may include but are not limited to having ((~~nurse~~)) hospital staffing committees work by video conference, telephone, or email.

(11) By July 1, 2024, the hospital staffing committee shall file with the department a charter that must include, but is not limited to:

(a) A process for electing cochairs and their terms;

(b) Roles, responsibilities, and processes by which the hospital staffing committee functions, including which patient care staff job classes will be represented on the committee as nonvoting members, how many members will serve on the committee, processes to ensure adequate quorum and ability of committee members to attend, and processes for replacing members who do not regularly attend;

(c) Schedule for monthly meetings with more frequent meetings as needed that ensures committee members have 30 days' notice of meetings;

(d) Processes by which all staffing complaints will be reviewed, investigated, and resolved, noting the date received as well as initial, contingent, and final disposition of complaints and corrective action plan where applicable;

(e) Processes by which complaints will be resolved within 90 days of receipt, or longer with majority approval of the committee, and processes to ensure the complainant receives a letter stating the outcome of the complaint;

(f) Processes for attendance by any employee, and a labor representative if requested by the employee, who is involved in a complaint;

(g) Processes for the hospital staffing committee to conduct quarterly reviews of: Staff turnover rates including new hire turnover rates during first

year of employment; anonymized aggregate exit interview data on an annual basis; and hospital plans regarding workforce development;

(h) Standards for hospital staffing committee approval of meeting documentation including meeting minutes, attendance, and actions taken;

(i) Policies for retention of meeting documentation for a minimum of three years and consistent with each hospital's document retention policies;

(j) Processes for the hospital to provide the hospital staffing committee with information regarding patient complaints involving staffing made to the hospital through the patient grievance process required under 42 C.F.R. 482.13(a)(2); and

(k) Processes for how the information from the reports required under subsection (7) of this section will be used to inform the development and semiannual review of the staffing plan.

(12) The department and the department of labor and industries must provide technical assistance to hospital staffing committees to assist with compliance with this section. Technical assistance may not be provided during an inspection, or during the time between when an investigation of a hospital has been initiated and when such investigation is resolved.

Sec. 4. RCW 70.41.425 and 2017 c 249 s 3 are each amended to read as follows:

(1)(a) The department shall investigate a complaint submitted under this section for violation of RCW 70.41.420 following receipt of a complaint with documented evidence of failure to:

(i) Form or establish a hospital staffing committee;

(ii) Conduct a semiannual review of a ((~~nurse~~)) staffing plan;

(iii) Submit a ((~~nurse~~)) staffing plan on an annual basis and any updates; or

(iv)(A) Follow the nursing ((~~personnel~~)) staff assignments in a patient care unit in violation of RCW 70.41.420(7)(((~~(a) or shift-to-shift adjustments in staffing levels in violation of RCW 70.41.420(7)(b)~~))) (c) or (d).

(B) Based on their formal agreement required under sections 5 and 6 of this act, the department and the department of labor and industries shall investigate complaints under this subsection (1)(a)(iv). The departments may only investigate a complaint under this subsection (1)(a)(iv) ((~~after making an assessment that the submitted evidence indicates a continuing pattern of unresolved~~)) for violations of RCW 70.41.420(7) (((~~(a) or (b)~~))) (c) or (d), that were submitted to the ((~~nurse~~)) hospital staffing committee and remain unresolved for 60 days after receipt by the hospital staffing committee, excluding complaints determined by the ((~~nurse~~)) hospital staffing committee to be resolved or dismissed. ((~~The submitted evidence must include the aggregate data contained in the complaints submitted to the hospital's nurse staffing committee that indicate a continuing pattern of unresolved violations for a minimum sixty-day continuous period leading up to receipt of the complaint by the department.~~

~~(C) The department may not investigate a complaint under this subsection (1)(a)(iv) in the event of unforeseeable emergency circumstances or if the hospital, after consultation with the nurse staffing committee, documents it has made reasonable efforts to obtain staffing to meet required assignments but has been unable to do so.~~

~~(b) After an investigation conducted under (a) of this subsection, if the department determines that there has been a violation, the department shall~~

~~require the hospital to submit a corrective plan of action within forty-five days of the presentation of findings from the department to the hospital.~~))

(b) The department and the department of labor and industries may investigate and take appropriate enforcement action without any complaint if either department discovers data in the course of an investigation or inspection suggesting any violation of RCW 70.41.420.

(c) After an investigation conducted under (a) of this subsection, if the department and the department of labor and industries, pursuant to their formal agreement under sections 5 and 6 of this act, determine that there has been multiple unresolved violations of RCW 70.41.420(7) (c) and (d) of a similar nature within 30 days prior to the receipt of the complaint by the department, the department shall require the hospital to submit for their approval a corrective plan of action within 45 days of the presentation of findings from the department to the hospital.

(d) Hospitals will not be found in violation of RCW 70.41.420 if it has been determined, following an investigation, that:

(i) There were unforeseeable emergent circumstances and the process under RCW 70.41.420(7)(f) has been followed, if applicable;

(ii) The hospital, after consultation with the hospital staffing committee, documents that the hospital has made reasonable efforts to obtain and retain staffing to meet required personnel assignments but has been unable to do so; or

(iii) Per documentation provided by the hospital, an individual admission of a patient in need of critical care to sustain their life or prevent disability received from another hospital caused the staffing plan violation alleged in the complaint.

(2)(a) The department shall review each hospital staffing plan submitted by a hospital to ensure it is received by the appropriate deadline and is completed on the department-issued staffing plan form.

(b) The hospital must complete all applicable portions of the staffing plan form. The department may determine that a hospital has failed to timely submit its staffing plan if the staffing plan form is incomplete.

(3) Beginning January 1, 2027, the department shall review all reports submitted under RCW 70.41.420(7)(b)(i) to ensure:

(a) The forms are received by the appropriate deadline;

(b) The forms are completed on the department-issued form; and

(c) The checkbox under RCW 70.41.420(7)(b)(iii) has not been checked.

(4) Beginning January 1, 2027, the department, in consultation with the department of labor and industries, must require a hospital to submit for their approval a corrective plan of action within 45 calendar days of a report to the department under RCW 70.41.420(7)(b)(ii) of this section or after an investigation under RCW 70.41.420(7)(b)(iii) of this section finds that the hospital is not in compliance.

(5)(a) Pursuant to their formal agreement under sections 5 and 6 of this act the department and the department of labor and industries must review and approve a hospital's proposed corrective plan of action under subsection (1)(c) or (4) of this section. As necessary, the department will require the hospital to revise the plan for it to adequately address issues identified by the department and the department of labor and industries prior to approving the plan.

(b) The department may review any corrective plan of action under subsection (1)(c) or (4) of this section that adversely impact provision of health

care services or patient safety, and may require revisions to the corrective plan of action to ensure patient safety is maintained.

(c) A corrective plan of action may include, but is not limited to, the following elements:

(i) Exercising efforts to obtain additional staff;

(ii) Implementing actions to improve staffing plan variation or shift-to-shift adjustment planning;

(iii) Delaying the addition of new services or procedure areas;

(iv) Requiring minimum staffing standards;

(v) Reducing hospital beds or services; or

(vi) Closing the hospital emergency department to ambulance transport, except for patients in need of critical care to sustain their life or prevent disability.

(d) A corrective plan of action must be of a duration long enough to demonstrate the hospital's ability to sustain compliance with the requirements of this section.

(e) In the event that the hospital follows a corrective plan of action under this subsection but remains in compliance for less than 80 percent of the nurse staffing assignments in the month following completion of the corrective plan of action, the hospital is required to submit a revised corrective plan of action with new elements that are likely to produce a minimum of 80 percent compliance with the nurse staffing assignments in a month.

(6)(a) In the event that a hospital fails to submit a staffing plan, staffing committee charter, or a corrective plan of action by the relevant deadline, the department may take administrative action with penalties up to $10,000 per 30 days of failure to comply.

(b)(i) In the event that a hospital ((~~fails to submit or~~)) submits but fails to follow ((~~such~~)) a corrective plan of action ((~~in response to a violation or violations found by the department based on a complaint filed pursuant to subsection (1) of this section~~)) required under subsection (1)(c) or (4) of this section, the department of labor and industries may impose((~~, for all violations asserted against a hospital at any time,~~)) a civil penalty of ((~~one hundred dollars~~)) $50,000 per ((~~day~~)) 30 days. Civil penalties apply until the hospital ((~~submits or begins to follow~~)) begins to follow a corrective plan of action ((~~or takes other action agreed to~~)) that has been approved by the department. Revenue from these fines must be deposited into the supplemental pension fund established under RCW 51.44.033.

((~~(3) The~~)) (ii) If the department of labor and industries finds a violation after an investigation pursuant to subsection (1)(a)(iv)(B) of this section or assesses or imposes any penalty pursuant to this section, the employer may appeal the department's finding or assessment of penalties according to the procedures under sections 12 through 14 of this act.

(7)(a) As resources allow, the department ((~~shall maintain for public inspection~~)) must make records of any civil penalties((~~,~~)) and administrative actions((~~,~~)) or license suspensions or revocations imposed on hospitals, or any notices of resolution under this section available to the public.

(b) The department must post hospital staffing plans, hospital staffing committee charters, and the semi-annual compliance reports required under RCW 70.41.420 on its website.

(((~~(4) For purposes of this section, "unforeseeable emergency circumstance" means:~~

~~(a) Any unforeseen national, state, or municipal emergency;~~

~~(b) When a hospital disaster plan is activated;~~

~~(c) Any unforeseen disaster or other catastrophic event that substantially affects or increases the need for health care services; or~~

~~(d) When a hospital is diverting patients to another hospital or hospitals for treatment or the hospital is receiving patients who are from another hospital or hospitals.~~

~~(5)~~)) (8) Nothing in this section shall be construed to preclude the ability to otherwise submit a complaint to the department for failure to follow RCW 70.41.420.

(((~~(6) The department shall submit a report to the legislature on December 31, 2020. This report shall include the number of complaints submitted to the department under this section, the disposition of these complaints, the number of investigations conducted, the associated costs for complaint investigations, and recommendations for any needed statutory changes. The department shall also project, based on experience, the impact, if any, on hospital licensing fees over the next four years. Prior to the submission of the report, the secretary shall convene a stakeholder group consisting of the Washington state hospital association, the Washington state nurses association, service employees international union healthcare 1199NW, and united food and commercial workers 21. The stakeholder group shall review the report prior to its submission to review findings and jointly develop any legislative recommendations to be included in the report.~~

~~(7) No fees shall be increased to implement chapter 249, Laws of 2017 prior to July 1, 2021.~~))

NEW SECTION. **Sec. 5.** A new section is added to chapter 70.41 RCW to read as follows:

By July 1, 2024, the department and the department of labor and industries must jointly establish a formal agreement that identifies the roles of each of the two agencies with respect to the oversight and enforcement of RCW 70.41.420 (4)(a) and (12) and 70.41.425 (1), (4), (5), (6)(b), and (7), as follows:

(1) To the extent feasible, provide for oversight and enforcement actions by a single agency, and must include measures to avoid multiple citations for the same violation; and

(2) Include provisions that allow for data sharing, including hospital staffing plans, reports submitted under RCW 70.41.420(7), and hospital staffing committee complaints submitted to the department.

NEW SECTION. **Sec. 6.** A new section is added to chapter 49.12 RCW to read as follows:

By July 1, 2024, the department and the department of health must jointly establish a formal agreement that identifies the roles of each of the two agencies with respect to the oversight and enforcement of RCW 70.41.420(7) and 70.41.425 (1) and (5)(b), as follows:

(1) To the extent feasible, provide for oversight and enforcement actions by a single agency, and must include measures to avoid multiple citations for the same violation; and

(2) Include provisions that allow for data sharing, including hospital staffing plans, reports submitted under RCW 70.41.420(7), and hospital staffing committee complaints submitted to the department of health.

Sec. 7. RCW 70.41.130 and 2021 c 61 s 2 are each amended to read as follows:

(1) The department is authorized to take any of the actions identified in this section against a hospital's license or provisional license in any case in which it finds that there has been a failure or refusal to comply with the requirements of this chapter or the standards or rules adopted under this chapter or the requirements of RCW 71.34.375 on the basis of findings by the department of labor and industries under RCW 70.41.425(6)(b).

(a) When the department determines the hospital has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule, or has been given any previous statement of deficiency that included the same or similar type of violation of the same or similar statute or rule, or when the hospital failed to correct noncompliance with a statute or rule by a date established or agreed to by the department, the department may impose reasonable conditions on a license. Conditions may include correction within a specified amount of time, training, or hiring a department-approved consultant if the hospital cannot demonstrate to the department that it has access to sufficient internal expertise. If the department determines that the violations constitute immediate jeopardy, the conditions may be imposed immediately in accordance with subsection (3) of this section.

(b)(i) In accordance with the authority the department has under RCW 43.70.095, the department may assess a civil fine of up to $10,000 per violation, not to exceed a total fine of $1,000,000, on a hospital licensed under this chapter when the department determines the hospital has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule, or has been given any previous statement of deficiency that included the same or similar type of violation of the same or similar statute or rule, or when the hospital failed to correct noncompliance with a statute or rule by a date established or agreed to by the department.

(ii) Proceeds from these fines may only be used by the department to offset costs associated with licensing hospitals.

(iii) The department shall adopt in rules under this chapter specific fine amounts in relation to:

(A) The severity of the noncompliance and at an adequate level to be a deterrent to future noncompliance; and

(B) The number of licensed beds and the operation size of the hospital. The licensed hospital beds will be categorized as:

(I) Up to 25 beds;

(II) 26 to 99 beds;

(III) 100 to 299 beds; and

(IV) 300 beds or greater.

(iv) If a licensee is aggrieved by the department's action of assessing civil fines, the licensee has the right to appeal under RCW 43.70.095.

(c) The department may suspend a specific category or categories of services or care or recovery units within the hospital as related to the violation

by imposing a limited stop service. This may only be done if the department finds that noncompliance results in immediate jeopardy.

(i) Prior to imposing a limited stop service, the department shall provide a hospital written notification upon identifying deficient practices or conditions that constitute an immediate jeopardy, and upon the review and approval of the notification by the secretary or the secretary's designee. The hospital shall have 24 hours from notification to develop and implement a department-approved plan to correct the deficient practices or conditions that constitute an immediate jeopardy. If the deficient practice or conditions that constitute immediate jeopardy are not verified by the department as having been corrected within the same 24 hour period, the department may issue the limited stop service.

(ii) When the department imposes a limited stop service, the hospital may not admit any new patients to the units in the category or categories subject to the limited stop service until the limited stop service order is terminated.

(iii) The department shall conduct a follow-up inspection within five business days or within the time period requested by the hospital if more than five business days is needed to verify the violation necessitating the limited stop service has been corrected.

(iv) The limited stop service shall be terminated when:

(A) The department verifies the violation necessitating the limited stop service has been corrected or the department determines that the hospital has taken intermediate action to address the immediate jeopardy; and

(B) The hospital establishes the ability to maintain correction of the violation previously found deficient.

(d) The department may suspend new admissions to the hospital by imposing a stop placement. This may only be done if the department finds that noncompliance results in immediate jeopardy and is not confined to a specific category or categories of patients or a specific area of the hospital.

(i) Prior to imposing a stop placement, the department shall provide a hospital written notification upon identifying deficient practices or conditions that constitute an immediate jeopardy, and upon the review and approval of the notification by the secretary or the secretary's designee. The hospital shall have 24 hours from notification to develop and implement a department-approved plan to correct the deficient practices or conditions that constitute an immediate jeopardy. If the deficient practice or conditions that constitute immediate jeopardy are not verified by the department as having been corrected within the same 24 hour period, the department may issue the stop placement.

(ii) When the department imposes a stop placement, the hospital may not admit any new patients until the stop placement order is terminated.

(iii) The department shall conduct a follow-up inspection within five business days or within the time period requested by the hospital if more than five business days is needed to verify the violation necessitating the stop placement has been corrected.

(iv) The stop placement order shall be terminated when:

(A) The department verifies the violation necessitating the stop placement has been corrected or the department determines that the hospital has taken intermediate action to address the immediate jeopardy; and

(B) The hospital establishes the ability to maintain correction of the violation previously found deficient.

(e) The department may deny an application for a license or suspend, revoke, or refuse to renew a license.

(2) The department shall adopt in rules under this chapter a fee methodology that includes funding expenditures to implement subsection (1) of this section. The fee methodology must consider:

(a) The operational size of the hospital; and

(b) The number of licensed beds of the hospital.

(3)(a) Except as otherwise provided, RCW 43.70.115 governs notice of actions taken by the department under subsection (1) of this section and provides the right to an adjudicative proceeding. Adjudicative proceedings and hearings under this section are governed by the administrative procedure act, chapter 34.05 RCW. The application for an adjudicative proceeding must be in writing, state the basis for contesting the adverse action, including a copy of the department's notice, be served on and received by the department within 28 days of the licensee's receipt of the adverse notice, and be served in a manner that shows proof of receipt.

(b) When the department determines a licensee's noncompliance results in immediate jeopardy, the department may make the imposition of conditions on a licensee, a limited stop placement, stop placement, or the suspension of a license effective immediately upon receipt of the notice by the licensee, pending any adjudicative proceeding.

(i) When the department makes the suspension of a license or imposition of conditions on a license effective immediately, a licensee is entitled to a show cause hearing before a presiding officer within 14 days of making the request. The licensee must request the show cause hearing within 28 days of receipt of the notice of immediate suspension or immediate imposition of conditions. At the show cause hearing the department has the burden of demonstrating that more probably than not there is an immediate jeopardy.

(ii) At the show cause hearing, the presiding officer may consider the notice and documents supporting the immediate suspension or immediate imposition of conditions and the licensee's response and must provide the parties with an opportunity to provide documentary evidence and written testimony, and to be represented by counsel. Prior to the show cause hearing, the department must provide the licensee with all documentation that supports the department's immediate suspension or imposition of conditions.

(iii) If the presiding officer determines there is no immediate jeopardy, the presiding officer may overturn the immediate suspension or immediate imposition of conditions.

(iv) If the presiding officer determines there is immediate jeopardy, the immediate suspension or immediate imposition of conditions shall remain in effect pending a full hearing.

(v) If the presiding officer sustains the immediate suspension or immediate imposition of conditions, the licensee may request an expedited full hearing on the merits of the department's action. A full hearing must be provided within 90 days of the licensee's request.

Sec. 8. RCW 49.12.480 and 2019 c 296 s 1 are each amended to read as follows:

(1) An employer shall provide employees with meal and rest periods as required by law, subject to the following:

(a) Rest periods must be scheduled at any point during each work period during which the employee is required to receive a rest period;

(b) Employers must provide employees with uninterrupted meal and rest breaks. This subsection (1)(b) does not apply in the case of:

(i) An unforeseeable emergent circumstance, as defined in RCW 49.28.130; or

(ii) ((~~A clinical circumstance, as determined by the employee, employer, or employer's designee, that may lead to a significant adverse effect on the patient's condition:~~

~~(A) Without the knowledge, specific skill, or ability of the employee on break; or~~

~~(B) Due to an unforeseen or unavoidable event relating to patient care delivery requiring immediate action that could not be planned for by an employer;~~

~~(c) For any rest break that is interrupted before ten complete minutes by an employer or employer's designee under the provisions of (b)(ii) of this subsection, the employee must be given an additional ten minute uninterrupted rest break at the earliest reasonable time during the work period during which the employee is required to receive a rest period. If the elements of this subsection are met, a rest break shall be considered taken for the purposes of the minimum wage act as defined by chapter 49.46 RCW.~~)) An unforeseeable clinical circumstance, as determined by the employee that may lead to a significant adverse effect on the patient's condition, unless the employer or employer's designee determines that the patient may suffer life-threatening adverse effects;

(c) For any work period for which an employee is entitled to one or more meal periods and more than one rest period, the employee and the employer may agree that a meal period may be combined with a rest period. This agreement may be revoked at any time by the employee. If the employee is required to remain on duty during the combined meal and rest period, the time shall be paid. If the employee is released from duty for an uninterrupted combined meal and rest period, the time corresponding to the meal period shall be unpaid, but the time corresponding to the rest period shall be paid.

(2)(a) The employer shall provide a mechanism to record when an employee misses a meal or rest period and maintain these records.

(b) The employer must provide a quarterly report to the department of the total meals and rest periods missed in violation of this section during the quarter covered by the report, and the total number of meals and rest periods required during the quarter. The reports are due to the department 30 calendar days after the conclusion of the calendar quarter.

(c) The provisions of (b) in this subsection (2) do not apply to hospitals defined in RCW 70.41.420(7)(b)(iv) until July 1, 2026.

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

(a) "Employee" means a person who:

(i) Is employed by ((~~a health care facility~~)) an employer;

(ii) Is involved in direct patient care activities or clinical services; and

(iii) Receives an hourly wage or is covered by a collective bargaining agreement((~~; and~~

~~(iv) Is a licensed practical nurse or registered nurse licensed under chapter 18.79 RCW, a surgical technologist registered under chapter 18.215 RCW, a diagnostic radiologic technologist or cardiovascular invasive specialist certified under chapter 18.84 RCW, a respiratory care practitioner licensed under chapter 18.89 RCW, or a nursing assistant certified as defined in RCW 18.88A.020~~)).

(b) "Employer" means hospitals licensed under chapter 70.41 RCW((~~, except that the following hospitals are excluded until July 1, 2021:~~

~~(i) Hospitals certified as critical access hospitals under 42 U.S.C. Sec. 1395i-4;~~

~~(ii) Hospitals with fewer than twenty-five acute care beds in operation; and~~

~~(iii) Hospitals certified by the centers for medicare and medicaid services as sole community hospitals as of January 1, 2013, that: Have had less than one hundred fifty acute care licensed beds in fiscal year 2011; have a level III adult trauma service designation from the department of health as of January 1, 2014; and are owned and operated by the state or a political subdivision~~)).

NEW SECTION. **Sec. 9.** A new section is added to chapter 49.12 RCW to read as follows:

(1) The department must enforce the provisions of RCW 49.12.480, including reviewing reports submitted under RCW 49.12.480(2) to ensure they are timely, complete, and on the department-issued form.

(2)(a) Upon the department's review of the employer's report due under RCW 49.12.480(2), if the department determines that an employer is not 80 percent compliant with the meal and rest break requirements under RCW 49.12.480, and more than 20 percent of the required meals and rest periods were missed, or if an employer fails to properly submit a report, the department may offer to provide technical assistance to the employer, although until June 30, 2026, the department must offer technical assistance to the employer.

(b) Beginning July 1, 2026, if the department finds that an employer has exceeded the quarterly threshold in (a) of this subsection for missed meals and rest periods, the department must impose a penalty. The provisions of this subsection do not apply to employers who are hospitals defined in RCW 70.41.420(7)(b)(iv) until July 1, 2028.

(c)(i) The penalties assessed by the department each time the department imposes a penalty under (b) of this subsection are as follows:

(A) For hospitals certified as critical access hospitals under 42 U.S.C. Sec. 1395i-4, or with up to 25 licensed beds: $5,000;

(B) For hospitals with 26 to 99 licensed beds: $10,000;

(C) For hospitals with 100 to 299 beds: $15,000; and

(D) For hospitals with 300 or more beds: $20,000.

(ii) If the department imposes a penalty in a third consecutive quarter, the department must double the penalty amounts in (c)(i) of this subsection for subsequent consecutive quarters. An employer in compliance for a single quarter is no longer subject to the penalties for subsequent violations under this subsection (c)(ii).

(3)(a) An employer may not take any adverse action against employees for exercising any right under RCW 49.12.480. An adverse action means any action taken or threatened by an employer against an employee for exercising the employee's rights under RCW 49.12.480 or this section, but does not include

noncoercive counseling, coaching, training, or other resources offered to an employee.

(b) The department must investigate complaints related to compliance with (a) of this subsection. The director may require the testimony of witnesses and the production of documents as part of the director's investigation.

(c) If the director determines that an employer has violated (a) of this subsection, the director may:

(i) Order payment to the department of a civil penalty of not more than $1,000 for an employer's first violation and not more than $5,000 for any subsequent related violation;

(ii) Order appropriate relief under this subsection (3) that includes any earnings the employee did not receive due to the employer's adverse action, including interest of one percent per month on all earnings owed. The earnings and interest owed will be calculated from the first date earnings were owed to the employee; or

(iii) Order the employer to restore the employee to the position of employment held by the employee when the retaliation occurred, or restore the employee to an equivalent position with equivalent employment hours, work schedule, benefits, pay, and other terms and conditions of employment.

(4)(a)(i) An employer must provide valid data in reports required under RCW 49.12.480(2). Valid data means that the data included in the reports is attested to by an employer's designee and has not been inappropriately manipulated or modified; and

(ii) Employees must be free from coercion into inaccurate recording of their meal and rest periods under RCW 49.12.480.

(b) The department must investigate complaints related to compliance with (a) of this subsection that are facially based on the actual knowledge of the complaining party. The director may require the testimony of witnesses and the production of documents as part of the director's investigation.

(c) If the director determines that an employer has violated (a) of this subsection, the director may:

(i) Order the employer to pay the department a civil penalty of not more than $1,000 for an employer's first violation and not more than $5,000 for any subsequent related violation; and

(ii) Order appropriate relief that includes any earnings the employee did not receive due to the employer's adverse action, including interest of one percent per month on all earnings owed. The earnings and interest owed will be calculated from the first date earnings were owed to the employee.

(5) The department may investigate and take appropriate enforcement action under this section without any complaint if the department discovers data in the course of an investigation or inspection.

(6) Any appeals of the department's decisions, including assessed penalties, and collection or deposit of civil penalties under this section must be pursuant to sections 12 through 14 of this act.

(7) For the purposes of this section, "coercion" means compelling or inducing an employee to engage in conduct which the employee has a legal right to abstain from or to abstain from the conduct which the employee has a legal right to engage in.

Sec. 10. RCW 49.28.140 and 2019 c 296 s 3 are each amended to read as follows:

(1) No employee of a health care facility may be required to work overtime. Attempts to compel or force employees to work overtime are contrary to public policy, and any such requirement contained in a contract, agreement, or understanding is void.

(2) The acceptance by any employee of overtime is strictly voluntary, and the refusal of an employee to accept such overtime work is not grounds for discrimination, dismissal, discharge, or any other penalty, threat of reports for discipline, or employment decision adverse to the employee.

(3) This section does not apply to overtime work that occurs:

(a) Because of any unforeseeable emergent circumstance;

(b) Because of prescheduled on-call time, subject to the following:

(i) Mandatory prescheduled on-call time may not be used in lieu of scheduling employees to work regularly scheduled shifts when a staffing plan indicates the need for a scheduled shift; ((~~and~~))

(ii) Mandatory prescheduled on-call time may not be used to address regular changes in patient census or acuity or expected increases in the number of employees not reporting for predetermined scheduled shifts; and

(iii) Mandatory, prescheduled on-call time may not be used to begin at a time when the duration of the procedure is expected to exceed the employee's regular scheduled hours of work, except for the case of a nonemergent patient procedure for which, in the judgment of the provider responsible for the procedure, a delay would cause a worse clinical outcome;

(c) When the employer documents that the employer has used reasonable efforts to obtain staffing. An employer has not used reasonable efforts if overtime work is used to fill vacancies resulting from chronic staff shortages; or

(d) When an employee is required to work overtime to complete a patient care procedure already in progress where the absence of the employee could have an adverse effect on the patient.

(4) An employee accepting overtime who works more than twelve consecutive hours shall be provided the option to have at least eight consecutive hours of uninterrupted time off from work following the time worked.

Sec. 11. RCW 49.28.150 and 2002 c 112 s 4 are each amended to read as follows:

The department of labor and industries shall investigate complaints of violations of RCW 49.28.140 as provided under sections 12 through 14 of this act. ((~~A violation of RCW 49.28.140 is a class 1 civil infraction in accordance with chapter 7.80 RCW, except that the maximum penalty is one thousand dollars for each infraction up to three infractions. If there are four or more violations of RCW 49.28.140 for a health care facility, the employer is subject to a fine of two thousand five hundred dollars for the fourth violation, and five thousand dollars for each subsequent violation. The department of labor and industries is authorized to issue and enforce civil infractions according to chapter 7.80 RCW.~~))

NEW SECTION. **Sec. 12.** A new section is added to chapter 49.12 RCW to read as follows:

(1)(a) If a complainant files a complaint with the department of labor and industries alleging a violation of RCW 49.28.140, the department shall investigate the complaint.

(b) The department may not investigate any such alleged violation of rights that occurred more than three years before the date that the complainant filed the complaint.

(c) Upon the investigation of a complaint, the department shall issue either a citation and notice of assessment or a determination of compliance, within 90 days after the date on which the department received the complaint, unless the complaint is otherwise resolved. The department may extend the period by providing advance written notice to the complainant and the employer setting forth good cause for an extension of the period and specifying the duration of the extension.

(d) The department shall send a citation and notice of assessment or the determination of compliance to both the employer and the complainant by service of process or using a method by which the mailing can be tracked, or the delivery can be confirmed to their last known addresses.

(2) If the department of labor and industries investigation finds that the complainant's allegation cannot be substantiated, the department shall issue a closure letter to the complainant and the employer detailing such finding.

(3)(a) If the department of labor and industries finds a violation of RCW 49.28.140, the department shall order the employer to pay the department a civil penalty.

(b) Except as provided otherwise in this chapter, the maximum penalty is $1,000 for each violation, up to three violations. If there are four or more violations of this chapter for a health care facility, the employer is subject to a civil penalty of $2,500 for the fourth violation, and $5,000 for each subsequent violation.

(c) The department may not assess a civil penalty if the employer reasonably relied on: (i) A rule related to any of the requirements of RCW 49.28.140; (ii) a written order, ruling, approval, opinion, advice, determination, or interpretation of the director; or (iii) an interpretive or administrative policy issued by the department and filed with the office of the code reviser. In accordance with the department's retention schedule obligations under chapter 40.14 RCW, the department shall maintain a complete and accurate record of all written orders, rulings, approvals, opinions, advice, determinations, and interpretations for purposes of determining whether an employer is immune from civil penalties under (b) of this subsection.

(4) The department of labor and industries may, at any time, waive or reduce a civil penalty assessed under this section if the director of the department determines that the employer has taken corrective action to resolve the violation.

(5) The department of labor and industries shall deposit all civil penalties paid under this section in the supplemental pension fund established under RCW 51.44.033.

NEW SECTION. **Sec. 13.** A new section is added to chapter 49.12 RCW to read as follows:

(1) A person, firm, or corporation aggrieved by a citation and notice of assessment or a determination of compliance by the department of labor and industries under section 12 of this act may appeal the citation and notice of

assessment to the director of the department by filing a notice of appeal with the director within 30 days of the department's issuance of the citation and notice of assessment. A citation and notice of assessment or a determination of compliance not appealed within 30 days is final and binding, and not subject to further appeal.

(2) A notice of appeal filed with the director of the department of labor and industries under this section shall stay the effectiveness of the citation and notice of assessment or the determination of compliance pending final review of the appeal by the director as provided for in chapter 34.05 RCW.

(3) Upon receipt of a notice of appeal, the director of the department of labor and industries shall assign the hearing to an administrative law judge of the office of administrative hearings to conduct the hearing and issue an initial order. The hearing and review procedures shall be conducted in accordance with chapter 34.05 RCW, and the standard of review by the administrative law judge of an appealed citation and notice of assessment or determination of compliance shall be de novo. Any party who seeks to challenge an initial order shall file a petition for administrative review with the director within 30 days after service of the initial order. The director shall conduct administrative review in accordance with chapter 34.05 RCW.

(4) The director of the department of labor and industries shall issue all final orders after appeal of the initial order. The final order of the director is subject to judicial review in accordance with chapter 34.05 RCW.

(5) Orders that are not appealed within the time period specified in this section and chapter 34.05 RCW are final and binding, and not subject to further appeal.

(6) An employer who fails to allow adequate inspection of records in an investigation by the department of labor and industries under this section within a reasonable time period may not use such records in any appeal under this section to challenge the correctness of any determination by the department of the penalty assessed.

NEW SECTION. **Sec. 14.** A new section is added to chapter 49.12 RCW to read as follows:

Collections of unpaid citations assessing civil penalties under sections 11 through 13 of this act will be pursuant to RCW 49.48.086.

NEW SECTION. **Sec. 15.** The Washington state institute for public policy shall conduct a study on hospital staffing standards for direct care registered nurses and direct care nursing assistants.

(1) The institute must review current and historical staffing plans filed with the department of health under chapter 70.41 RCW and describe:

(a) Timeliness and completeness of filed forms;

(b) Format of filed forms;

(c) Patient care unit nursing staff assignments related to the maximum number of patients to which a direct care nursing or nursing assistant may be assigned;

(d) Descriptive statistics on submissions by hospital unit type;

(e) Trends over time, if any;

(f) Legal minimum staffing standards for registered nurses and nursing assistants in other jurisdictions; and

(g) Relevant professional association guidance, recommendations, or best practices.

(2) The department of health shall cooperate with the institute to facilitate access to data or other resources necessary to complete the analysis required under this section.

(3) The institute must provide a report on its findings to the department and relevant committees of the legislature by June 30, 2024.

NEW SECTION. **Sec. 16.** 2017 c 249 s 4 (uncodified) is repealed.

NEW SECTION. **Sec. 17.** Except for sections 1, 3, 15, and 16 of this act, this act takes effect July 1, 2024.

NEW SECTION. **Sec. 18.** Section 16 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect June 1, 2023.

Passed by the Senate March 6, 2023.
Passed by the House April 6, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 115

[Substitute Senate Bill 5238]

ACADEMIC EMPLOYEES—COLLECTIVE BARGAINING

AN ACT Relating to collective bargaining for employees who are enrolled in academic programs at public institutions of higher education; adding a new section to chapter 41.56 RCW; creating a new section; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature acknowledges the right of student employees who provide instructional, research, and related academic services at the University of Washington and Washington State University to collectively bargain while student employees performing equivalent services at Central Washington University, Eastern Washington University, Western Washington University, and The Evergreen State College do not. The legislature further recognizes that while the titles of the student employees may differ between the six institutions of higher education, student employees at Central Washington University, Eastern Washington University, Western Washington University, and The Evergreen State College should enjoy the same collective bargaining rights as their counterparts at the University of Washington and Washington State University. The legislature therefore intends to grant bargaining rights to student employees at Central Washington University, Eastern Washington University, Western Washington University, and The Evergreen State College to the same extent such rights are granted to student employees at the University of Washington and Washington State University.

(2) The legislature intends to promote cooperative labor relations between Central Washington University, Eastern Washington University, Western Washington University, and The Evergreen State College and the employees who provide instructional, research, and related academic services, and who are

enrolled as students at the university by extending collective bargaining rights under chapter 41.56 RCW and using the orderly procedures administered by the public employment relations commission. To achieve this end, the legislature intends that under chapter 41.56 RCW the university will exclusively bargain in good faith over all matters within the scope of bargaining under section 2 of this act.

(3) The legislature recognizes the importance of the shared governance practices developed at Central Washington University, Eastern Washington University, Western Washington University, and The Evergreen State College. The legislature does not intend to restrict, limit, or prohibit the exercise of the functions of the faculty in any shared governance mechanisms or practices, including the faculty senate, faculty councils, and faculty codes of Central Washington University, Eastern Washington University, Western Washington University, and The Evergreen State College; nor does the legislature intend to restrict, limit, or prohibit the exercise of the functions of the graduate and professional student association, the associated students of Central Washington University, Eastern Washington University, Western Washington University, and The Evergreen State College, or any other student organization in matters outside the scope of bargaining covered by chapter 41.56 RCW.

(4) The legislature intends that nothing in this act will restrict, limit, or prohibit Central Washington University, Eastern Washington University, Western Washington University, and The Evergreen State College from consideration of the merits, necessity, or organization of any program, activity, or service established by Central Washington University, Eastern Washington University, Western Washington University, and The Evergreen State College including, but not limited to, any decision to establish, modify, or discontinue any such program, activity, or service. The legislature further intends that nothing in this act will restrict, limit, or prohibit Central Washington University, Eastern Washington University, Western Washington University, and The Evergreen State College from having sole discretion over admission requirements for students, criterion for the award of certificates and degrees to students, academic criterion for selection of employees covered by this act, initial appointment of students, and the content, conduct, and supervision of courses, curricula, grading requirements, and research programs.

(5) The legislature does not intend to limit the matters excluded from collective bargaining to those items specified in section 2 of this act.

NEW SECTION. **Sec. 2.** A new section is added to chapter 41.56 RCW to read as follows:

(1) In addition to the entities listed in RCW 41.56.020, this chapter applies to employees who are enrolled in an academic program and are in a classification covered in subsection (2) of this section on any campus of Central Washington University, Eastern Washington University, Western Washington University, and The Evergreen State College.

(2)(a) For the purposes of this section, "employees" includes all employees enrolled in an academic program whose duties and responsibilities are substantially equivalent to those employees in the following classifications:

(i) Graduate teaching assistant;

(ii) Teaching assistant;

(iii) Graduate staff assistant;

(iv) Tutor, reader, and grader in all academic units and tutoring centers;

(v) Lab assistant;

(vi) Faculty assistant;

(vii) Research assistant; and

(viii) Graduate research assistant, except for those in (b) of this subsection.

(b) For the purposes of this section, "employees" does not include graduate research assistants who are performing research primarily related to their dissertation and who have incidental or no service expectations placed upon them by the university.

(3) The employees in subsection (2) of this section constitute an appropriate bargaining unit at each individual institution of higher education.

(4)(a) The scope of bargaining for employees at Central Washington University, Eastern Washington University, Western Washington University, and The Evergreen State College under this section excludes:

(i) The ability to terminate the employment of any individual if the individual is not meeting academic requirements as determined by Central Washington University, Eastern Washington University, Western Washington University, and The Evergreen State College;

(ii) The amount of tuition or fees at Central Washington University, Eastern Washington University, Western Washington University, and The Evergreen State College. However, tuition and fee remission and waiver is within the scope of bargaining;

(iii) The academic calendar of Central Washington University, Eastern Washington University, Western Washington University, and The Evergreen State College; and

(iv) The number of students to be admitted to a particular class or class section at Central Washington University, Eastern Washington University, Western Washington University, and The Evergreen State College.

(b)(i) Except as provided in (b)(ii) of this subsection, provisions of collective bargaining agreements relating to compensation must not exceed the amount or percentage established by the legislature in the appropriations act. If any compensation provision is affected by subsequent modification of the appropriations act by the legislature, both parties must immediately enter into collective bargaining for the sole purpose of arriving at a mutually agreed-upon replacement for the affected provision.

(ii) Central Washington University, Eastern Washington University, Western Washington University, and The Evergreen State College may provide additional compensation to student employees covered by this section that exceeds that provided by the legislature.

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.

Passed by the Senate March 2, 2023.

Passed by the House April 6, 2023.

Approved by the Governor April 20, 2023.

Filed in Office of Secretary of State April 21, 2023.

CHAPTER 116

[Substitute Senate Bill 5286]

PAID FAMILY AND MEDICAL LEAVE—PREMIUM RATE

AN ACT Relating to enacting the unanimous recommendations of the paid family and medical leave task force; and amending RCW 50A.10.030.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 50A.10.030 and 2022 c 297 s 962 are each amended to read as follows:

(1)(((~~(a) Beginning January 1, 2019, the~~)) The department shall assess for each individual in employment with an employer and for each individual electing coverage a premium based on the amount of the individual's wages subject to subsection (4) of this section.

(((~~(b) The premium rate for family leave benefits shall be equal to one-third of the total premium rate.~~

~~(c) The premium rate for medical leave benefits shall be equal to two-thirds of the total premium rate.~~))

(2) ((~~For calendar year 2022 and thereafter, the~~)) The commissioner shall determine the percentage of paid claims related to family leave benefits and the percentage of paid claims related to medical leave benefits and ((~~adjust the premium rates set in subsection (1)(b) and (c) of this section by~~)) set the family leave premium and the medical leave premium by applying the proportional share of paid claims for each type of leave to the total premium rate set in subsection (6) of this section.

(3)(a) ((~~Beginning January 1, 2019, and ending December 31, 2020, the total premium rate shall be four-tenths of one percent of the individual's wages subject to subsection (4) of this section.~~

~~(b)~~)) For family leave premiums, an employer may deduct from the wages of each employee up to the full amount of the premium required.

(((~~(c)~~)) (b) For medical leave premiums, an employer may deduct from the wages of each employee up to ((~~forty-five~~)) 45 percent of the full amount of the premium required.

(((~~(d)~~)) (c) An employer may elect to pay all or any portion of the employee's share of the premium for family leave or medical leave benefits, or both.

(4) The commissioner must annually set a maximum limit on the amount of wages that is subject to a premium assessment under this section that is equal to the maximum wages subject to taxation for social security as determined by the social security administration.

(5)(a) Employers with fewer than ((~~fifty~~)) 50 employees employed in the state are not required to pay the employer portion of premiums for family and medical leave.

(b) If an employer with fewer than ((~~fifty~~)) 50 employees elects to pay the premiums, the employer is then eligible for assistance under RCW 50A.24.010.

(6) ((~~For calendar year 2021 and thereafter, the total premium rate shall be based on the family and medical leave insurance account balance ratio as of September 30th of the previous year. The commissioner shall calculate the account balance ratio by dividing the balance of the family and medical leave insurance account by total covered wages paid by employers and those electing~~

~~coverage.~~)) (a) On or around October 20th of each year, the commissioner must calculate the total premium rate as follows:

(i) Calculate an amount that equals 140 percent of the prior fiscal year's expenses, including the total amount of benefits paid and the department's administrative costs;

(ii) Subtract the balance of the family and medical leave insurance account created in RCW 50A.05.070 as of September 30th from the amount determined in (a)(i) of this subsection (6); and

(iii) Divide the difference in (a)(ii) of this subsection (6) by the prior fiscal year's taxable wages. The ((~~division shall~~)) quotient must be carried to the fourth decimal place ((~~with the remaining fraction disregarded unless it amounts to five hundred-thousandths or more, in which case the fourth decimal place shall be rounded to the next higher digit. If the account balance ratio is:~~

~~(a) Zero to nine hundredths of one percent, the premium is six tenths of one percent of the individual's wages;~~

~~(b) One tenth of one percent to nineteen hundredths of one percent, the premium is five tenths of one percent of the individual's wages;~~

~~(c) Two tenths of one percent to twenty nine hundredths of one percent, the premium is four tenths of one percent of the individual's wages;~~

~~(d) Three tenths of one percent to thirty-nine hundredths of one percent, the premium is three tenths of one percent of the individual's wages;~~

~~(e) Four tenths of one percent to forty nine hundredths of one percent, the premium is two tenths of one percent of the individual's wages; or~~

~~(f) Five tenths of one percent or greater, the premium is one tenth of one percent of the individual's wages.~~

~~(7) Beginning January 1, 2021, if the account balance ratio calculated in subsection (6) of this section is below five hundredths of one percent, the commissioner must assess a solvency surcharge at the lowest rate necessary to provide revenue to pay for the administrative and benefit costs of family and medical leave, for the calendar year, as determined by the commissioner. The solvency surcharge shall be at least one-tenth of one percent and no more than six-tenths of one percent and be added to the total premium rate for family and medical leave benefits. Any projected expenditures of general fund moneys into the family and medical leave insurance account pursuant to section 723, chapter 297, Laws of 2022 must be excluded from the commissioner's determination of the necessary revenue to pay the administrative and benefit costs of family and medical leave for the calendar year.~~)) and then rounded up to the nearest one hundredth of one percent.

(b) The commissioner must set the total premium rate at the rate calculated in (a) of this subsection (6) subject to the following conditions:

(i) If the commissioner determines the total premium rate calculated in (a) of this subsection exceeds a rate necessary to maintain a three-month reserve at the end of the following rate collection year, the commissioner must set the total premium rate at the minimum rate necessary to close the rate collection year with a three-month reserve; and

(ii) The total premium rate must not exceed 1.20 percent.

(c) For the purposes of this subsection (6):

(i) "Taxable wages" means the total amount of wages subject to a premium assessment under this section for all individuals in employment with an employer and all individuals electing coverage.

(ii) "Three-month reserve" means the average monthly expenses, including the total amount of benefits paid and the department's administrative costs, in the prior 12 calendar months from the date of the calculation in this subsection multiplied by three.

((~~(8)~~)) (7)(a) The employer must collect from the employees the premiums ((~~and any surcharges~~)) provided under this section through payroll deductions and remit the amounts collected to the department.

(b) In collecting employee premiums through payroll deductions, the employer shall act as the agent of the employees and shall remit the amounts to the department as required by this title.

(c) On September 30th of each year, the department shall average the number of employees reported by an employer over the last four completed calendar quarters to determine the size of the employer for the next calendar year for the purposes of this section and RCW 50A.24.010.

((~~(9)~~)) (8) Premiums shall be collected in the manner and at such intervals as provided in this title and directed by the department.

((~~(10)~~)) (9) Premiums collected under this section are placed in trust for the employees and employers that the program is intended to assist.

((~~(11)~~)) (10) A city, code city, town, county, or political subdivision may not enact a charter, ordinance, regulation, rule, or resolution:

(a) Creating a paid family or medical leave insurance program that alters or amends the requirements of this title for any private employer;

(b) Providing for local enforcement of the provisions of this title; or

(c) Requiring private employers to supplement duration of leave or amount of wage replacement benefits provided under this title.

Passed by the Senate February 1, 2023.
Passed by the House April 6, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 117

[Senate Bill 5331]

UNEMPLOYMENT INSURANCE—JOB SEARCH REQUIREMENTS

AN ACT Relating to job search requirements for unemployment insurance benefits; amending RCW 50.20.240; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 50.20.240 and 2021 c 82 s 1 are each amended to read as follows:

(1)(a) To ensure that following the initial application for benefits, an individual is actively engaged in searching for work, the employment security department shall implement job search monitoring. The employment security department shall contract with employment security agencies in other states to ensure that individuals residing in those states and receiving benefits under this title are actively engaged in searching for work in accordance with the

requirements of this section. The employment security department must ensure that individuals are subject to comparable job search monitoring, regardless of whether they reside in Washington or elsewhere.

(b) Except for those individuals with employer attachment or union referral, individuals complying with an electrical apprenticeship training program that includes a recognized referral system under apprenticeship program standards approved by the Washington state apprenticeship and training council, individuals who qualify for unemployment compensation under RCW 50.20.050 (((~~(1)(b)(iv) or (2)(b)(iv)~~))), as applicable, and individuals in commissioner-approved training, an individual who has received five or more weeks of benefits under this title, regardless of whether the individual resides in Washington or elsewhere, must provide evidence of seeking work, as directed by the commissioner or the commissioner's agents, for each week beyond five in which a claim is filed.

(((~~(i) Until December 31, 2023, the evidence must demonstrate contacts with at least three employers per week or documented in-person job search activities at the local reemployment center at least three times per week, or as otherwise directed by the employment security department to meet the intent of rigorous reemployment efforts.~~

~~(ii) On or after January 1, 2024, the~~)) The evidence must demonstrate contacts with at least three employers per week, or documented job search activities with the local reemployment center at least three times per week, or as otherwise directed by the employment security department to meet the objective of reemployment in suitable work as described in RCW 50.20.100.

(c) In developing the requirements for job search ((~~monitoring~~)), the commissioner or the commissioner's agents shall ((~~utilize~~)) consult with an existing advisory committee having equal representation of employers and workers.

(2) An individual who fails to comply fully with the requirements for actively seeking work under RCW 50.20.010 shall lose all benefits for all weeks during which the individual was not in compliance, and the individual shall be liable for repayment of all such benefits under RCW 50.20.190.

NEW SECTION. **Sec. 2.** By July 1, 2024, and every two years thereafter, and in compliance with RCW 43.01.036, the employment security department in consultation with the advisory committee referenced in RCW 50.20.240(1)(c) must submit a report to the appropriate committees of the legislature that details the impacts of any flexibilities utilized in claimant job search methods, monitoring, and outcomes. The report must include a section for advisory committee members to respond directly to the contents of the report.

NEW SECTION. **Sec. 3.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 4.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet

federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state.

Passed by the Senate February 15, 2023.
Passed by the House April 7, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 118

[Senate Bill 5347]

ABSTRACT DRIVING RECORDS—ACCESS

AN ACT Relating to access to abstract driving records; and amending RCW 46.52.130.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 46.52.130 and 2022 c 182 s 206 are each amended to read as follows:

Upon a proper request, the department may only furnish information contained in an abstract of a person's driving record as permitted under this section.

(1) **Contents of abstract of driving record.** An abstract of a person's driving record, whenever possible, must include:

(a) An enumeration of motor vehicle accidents in which the person was driving, including:

(i) The total number of vehicles involved;

(ii) Whether the vehicles were legally parked or moving;

(iii) Whether the vehicles were occupied at the time of the accident; and

(iv) Whether the accident resulted in a fatality;

(b) Any reported convictions, forfeitures of bail, or findings that an infraction was committed based upon a violation of any motor vehicle law;

(c) The status of the person's driving privilege in this state; and

(d) Any reports of failure to appear in response to a traffic citation or failure to respond to a notice of infraction served upon the named individual by an arresting officer.

(2) **Release of abstract of driving record.** Unless otherwise required in this section, the release of an abstract does not require a signed statement by the subject of the abstract. An abstract of a person's driving record may be furnished to the following persons or entities:

(a) **Named individuals.** (i) An abstract of the full driving record maintained by the department may be furnished to the individual named in the abstract.

(ii) Nothing in this section prevents a court from providing a copy of the driver's abstract to the individual named in the abstract or that named individual's attorney, provided that the named individual has a pending or open infraction or criminal case in that court. A pending case includes criminal cases that have not reached a disposition by plea, stipulation, trial, or amended charge. An open infraction or criminal case includes cases on probation, payment agreement or subject to, or in collections. A probation clerk or probation officer employed by the court may also provide a copy of the driver's abstract to a treatment agency in accordance with (f) of this subsection. Courts may charge a

reasonable fee for the production and copying of the abstract for the individual unless the person is indigent as defined in RCW 10.101.010.

(b) **Employers or prospective employers.** (i) An abstract of the full driving record maintained by the department may be furnished to an employer or prospective employer or agents acting on behalf of an employer or prospective employer of the named individual for purposes related to driving by the individual as a condition of employment or otherwise at the direction of the employer.

(ii) The department may provide employers or their agents a three-year insurance carrier driving record of existing employees only for the purposes of sharing the driving record with its insurance carrier for underwriting. Employers may not provide the employees' full driving records to its insurance carrier.

(iii) An abstract of the full driving record maintained by the department may be furnished to an employer or prospective employer or the agent(s) acting on behalf of an employer or prospective employer of the named individual for purposes unrelated to driving by the individual when a driving record is required by federal or state law, or the employee or prospective employee will be handling heavy equipment or machinery.

(iv) Release of an abstract of the driving record of an employee or prospective employee requires a statement signed by: (A) The employee or prospective employee that authorizes the release of the record; and (B) the employer attesting that the information is necessary for employment purposes related to driving by the individual as a condition of employment or otherwise at the direction of the employer. If the employer or prospective employer authorizes agents to obtain this information on their behalf, this must be noted in the statement. The statement must also note that any information contained in the abstract related to an adjudication that is subject to a court order sealing the juvenile record of an employee or prospective employee may not be used by the employer or prospective employer, or an agent authorized to obtain this information on their behalf, unless required by federal regulation or law. The employer or prospective employer must afford the employee or prospective employee an opportunity to demonstrate that an adjudication contained in the abstract is subject to a court order sealing the juvenile record.

(v) Upon request of the person named in the abstract provided under this subsection, and upon that same person furnishing copies of court records ruling that the person was not at fault in a motor vehicle accident, the department must indicate on any abstract provided under this subsection that the person was not at fault in the motor vehicle accident.

(vi) No employer or prospective employer, nor any agents of an employer or prospective employer, may use information contained in the abstract related to an adjudication that is subject to a court order sealing the juvenile record of an employee or prospective employee for any purpose unless required by federal regulation or law. The employee or prospective employee must furnish a copy of the court order sealing the juvenile record to the employer or prospective employer, or the agents of the employer or prospective employer, as may be required to ensure the application of this subsection.

(c) **Volunteer organizations.** (i) An abstract of the full driving record maintained by the department may be furnished to a volunteer organization or an agent for a volunteer organization for which the named individual has submitted

an application for a position that would require driving by the individual at the direction of the volunteer organization.

(ii) Release of an abstract of the driving record of a prospective volunteer requires a statement signed by: (A) The prospective volunteer that authorizes the release of the record; and (B) the volunteer organization attesting that the information is necessary for purposes related to driving by the individual at the direction of the volunteer organization. If the volunteer organization authorizes an agent to obtain this information on their behalf, this must be noted in the statement.

(d) **Transit authorities.** An abstract of the full driving record maintained by the department may be furnished to an employee or agents of a transit authority checking prospective or existing volunteer vanpool drivers for insurance and risk management needs.

(e) **Insurance carriers.** (i) An abstract of the driving record maintained by the department covering the period of not more than the last three years may be furnished to an insurance company or its agents:

(A) That has motor vehicle or life insurance in effect covering the named individual;

(B) To which the named individual has applied; or

(C) That has insurance in effect covering the employer or a prospective employer of the named individual.

(ii) The abstract provided to the insurance company must:

(A) Not contain any information related to actions committed by law enforcement officers or firefighters, as both terms are defined in RCW 41.26.030, or by Washington state patrol officers, while driving official vehicles in the performance of their occupational duty, or by registered tow truck operators as defined in RCW 46.55.010 in the performance of their occupational duties while at the scene of a roadside impound or recovery so long as they are not issued a citation. This does not apply to any situation where the vehicle was used in the commission of a misdemeanor or felony;

(B) Include convictions under RCW 46.61.5249 and 46.61.525, except that the abstract must report the convictions only as negligent driving without reference to whether they are for first or second degree negligent driving; and

(C) Exclude any deferred prosecution under RCW 10.05.060, except that if a person is removed from a deferred prosecution under RCW 10.05.090, the abstract must show the deferred prosecution as well as the removal.

(iii) Any policy of insurance may not be canceled, nonrenewed, denied, or have the rate increased on the basis of information regarding an accident included in the abstract of a driving record, unless the policyholder was determined to be at fault.

(iv) Any insurance company or its agents, for underwriting purposes relating to the operation of commercial motor vehicles, may not use any information contained in the abstract relative to any person's operation of motor vehicles while not engaged in such employment. Any insurance company or its agents, for underwriting purposes relating to the operation of noncommercial motor vehicles, may not use any information contained in the abstract relative to any person's operation of commercial motor vehicles. For the purposes of this subsection, "commercial motor vehicle" has the same meaning as in RCW 46.25.010(6).

(f) **Alcohol/drug assessment or treatment agencies.** An abstract of the full driving record maintained by the department ((~~covering the period of not more than the last five years~~)) may be furnished to an alcohol/drug assessment or treatment agency approved by the department of health to which the named individual has applied or been assigned for evaluation or treatment, for purposes of assisting employees in making a determination as to what level of treatment, if any, is appropriate, ((~~except that~~)) and the abstract must:

(i) Also include records of alcohol-related offenses, as defined in RCW 46.01.260(2)((~~, covering a period of not more than the last ten years~~)); and

(ii) Indicate whether an alcohol-related offense was originally charged as a violation of either RCW 46.61.502 or 46.61.504.

(g) **Attorneys—City attorneys, county prosecuting attorneys, and named individual's attorney of record.** An abstract of the full driving record maintained by the department, including whether a recorded violation is an alcohol-related offense, as defined in RCW 46.01.260(2), that was originally charged as a violation of either RCW 46.61.502 or 46.61.504, may be furnished to city attorneys, county prosecuting attorneys, or the named individual's attorney of record. City attorneys, county prosecuting attorneys, or the named individual's attorney of record may provide the driving record to alcohol/drug assessment or treatment agencies approved by the department of social and health services to which the named individual has applied or been assigned for evaluation or treatment.

(h) **State colleges, universities, or agencies, or units of local government.** An abstract of the full driving record maintained by the department may be furnished to (i) state colleges, universities, or agencies for employment and risk management purposes or (ii) units of local government authorized to self-insure under RCW 48.62.031, or their agents, for employment and risk management purposes. "Unit of local government" includes an insurance pool established under RCW 48.62.031.

(i) **Superintendent of public instruction.** (i) An abstract of the full driving record maintained by the department may be furnished to the superintendent of public instruction for review of public school bus driver records. The superintendent or superintendent's designee may discuss information on the driving record with an authorized representative of the employing school district for employment and risk management purposes.

(ii) The superintendent of public instruction is exempt from paying the fees related to the reviewing of records and the fee required in subsection (5) of this section.

(j) **State and federal agencies.** An abstract of the driving record maintained by the department may be furnished to state and federal agencies, or their agents, in carrying out its functions.

(k) **Transportation network companies.** An abstract of the full driving record maintained by the department may be furnished to a transportation network company or its agents acting on its behalf of the named individual for purposes related to driving by the individual as a condition of being a contracted driver.

(l) **Research.** (i) The department may furnish driving record data to state agencies and bona fide scientific research organizations. The department may require review and approval by an institutional review board. For the purposes of

this subsection, "research" means a planned and systematic sociological, psychological, epidemiological, biomedical, or other scientific investigation carried out by a state agency, or by a scientific research professional associated with a bona fide scientific research organization with an objective to contribute to scientific knowledge, the solution of social and health problems, or the evaluation of public benefit and service programs. This definition excludes methods of record analysis and data collection that are subjective, do not permit replication, and are not designed to yield reliable and valid results.

(ii) The state agency, or a scientific research professional associated with a bona fide scientific research organization, are exempt from paying the fees related to the reviewing of records and the fee required in subsection (5) of this section. However, the department may charge a cost-recovery fee for the actual cost of providing the data.

(3) **Reviewing of driving records.** (a) In addition to the methods described herein, the director may enter into a contractual agreement for the purpose of reviewing the driving records of existing employees for changes to the record during specified periods of time. The department shall establish a fee for this service, which must be deposited in the highway safety fund. The fee for this service must be set at a level that does not result in a net revenue loss to the state. Any information provided under this subsection must be treated in the same manner and is subject to the same restrictions as driving record abstracts.

(b) The department may provide reviewing services to the following entities:

(i) Employers for existing employees, or their agents;

(ii) Transit authorities for current vanpool drivers, or their agents;

(iii) Insurance carriers for current policyholders, or their agents;

(iv) State colleges, universities, or agencies, or units of local government, or their agents;

(v) The office of the superintendent of public instruction for school bus drivers statewide; and

(vi) Transportation network companies, or their agents.

(4) **Release to third parties prohibited.** (a) Any person or entity receiving an abstract of a person's driving record under subsection (2)(b) through (l) of this section shall use the abstract exclusively for his, her, or its own purposes or as otherwise expressly permitted under this section, and shall not divulge any information contained in the abstract to a third party.

(b) The following release of records to third parties are hereby authorized:

(i) Employers may divulge driving records to regulatory bodies, as defined by the department by rule, such as the United States department of transportation and the federal motor carrier safety administration.

(ii) Employers may divulge a three-year driving record to their insurance carrier for underwriting purposes.

(iii) Employers may divulge driving records to contracted motor carrier consultants for the purposes of ensuring driver compliance and risk management.

(5) **Fees.** (a) The director shall collect a $15 fee for each abstract of a person's driving record furnished by the department. After depositing $2 of the driver's abstract fee in the move ahead WA flexible account created in RCW 46.68.520, the remainder shall be distributed as follows:

(i) Fifty percent must be deposited in the highway safety fund; and

(ii) Fifty percent must be deposited according to RCW 46.68.038.

(b) Beginning July 1, 2029, the director shall collect an additional $2 fee for each abstract of a person's driving record furnished by the department. The $2 additional driver's abstract fee must be deposited in the move ahead WA flexible account created in RCW 46.68.520.

(c) City attorneys and county prosecuting attorneys are exempt from paying the fees specified in (a) and (b) of this subsection for an abstract of a person's driving record furnished by the department for use in criminal proceedings.

(6) **Violation.** (a) Any negligent violation of this section is a gross misdemeanor.

(b) Any intentional violation of this section is a class C felony.

(7) Effective July 1, 2019, the contents of a driving abstract pursuant to this section shall not include any information related to sealed juvenile records unless that information is required by federal law or regulation.

Passed by the Senate February 22, 2023.
Passed by the House April 7, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 119

[Senate Bill 5390]

FORESTLANDS—NORTHERN SPOTTED OWL—PROGRAMMATIC SAFE HARBOR AGREEMENT

AN ACT Relating to establishing a programmatic safe harbor agreement on forestlands; and adding a new section to chapter 76.09 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 76.09 RCW to read as follows:

(1) The legislature finds that the federal government has established programs under the endangered species act, 16 U.S.C. Sec. 1539(a)(1)(A), that seek to provide regulatory incentives for private and other nonfederal property owners to recruit, enhance, or maintain habitats for species that are or may become listed as threatened or endangered. These activities are designed to enhance the propagation or survival of the affected species and provide assurance to participating landowners that their future land management activities would not be subject to the endangered species act's restrictions as long as they adhere to the terms of the programmatic safe harbor agreement. The legislature aims to encourage these programs in the forested environment, as they accomplish multiple desirable goals for multiple parties.

(2) The legislature recognizes the value of voluntary, incentive-based programs to nonfederal forestland owners to support the northern spotted owl, and finds that this section will facilitate participation in these programs if they can be made more accessible and streamlined. The federal agencies administering the endangered species act have developed programs under 16 U.S.C. Sec. 1539(a)(1)(A) whereby administrative authorities over species enhancement activities are transferred to state agencies under a programmatic

permit, under which the department would enroll participants, issue certificates of inclusion, and facilitate program implementation and compliance. Therefore, the legislature intends for these incentive-based programs to be available to nonfederal landowners consistent with the board's process.

(3) The department may enter into and administer a programmatic safe harbor agreement for the northern spotted owl for any forestland owner. Participation in this agreement by forestland owners is strictly voluntary and at the sole discretion of the landowner. The department shall consult with and rely upon technical assistance from the department of fish and wildlife regarding habitat assessments of candidate parcels and implementation of the programmatic safe harbor agreement. The department and the department of fish and wildlife shall enter into and maintain an interagency agreement to ensure implementation of the state's obligations under the safe harbor agreement and to ensure the department of fish and wildlife's technical expertise is available to support the safe harbor agreement.

(4) In administering the programmatic safe harbor agreement for the northern spotted owl described in subsection (3) of this section, the department has all authority necessary to successfully administer the federal permit, monitor compliance with the terms of certificates of inclusion, suspend or terminate landowner participation from the program, and provide all other landowner technical assistance as is needed to facilitate program implementation. For the purposes of administering the safe harbor agreement, the department must be able to access candidate parcels to ensure program eligibility or compliance.

(5) The board may adopt or amend its rules, if necessary, to implement the programmatic safe harbor agreement for the northern spotted owl described in this section.

(6) Decisions of the department to issue certificates of inclusion or to suspend or terminate a landowner's participation in the program may be reviewed in the same manner as forest practices applications under RCW 76.09.205.

(7) The provisions of this section are subject to the availability of amounts appropriated for this specific purpose.

Passed by the Senate March 6, 2023.
Passed by the House April 6, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 120

[Substitute Senate Bill 5415]

PUBLIC DEFENSE SERVICES—NOT GUILTY BY REASON OF INSANITY

AN ACT Relating to public defense services for persons committed as not guilty by reason of insanity; amending RCW 2.70.020, 10.77.020, 10.77.140, 10.77.150, 10.77.165, 10.77.180, 10.77.190, 10.77.200, 10.77.205, and 10.77.250; reenacting and amending RCW 10.77.010; adding new sections to chapter 2.70 RCW; creating a new section; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** Out of concern for inconsistent practices for providing postcommitment right to counsel services, the legislature directed the Washington state office of public defense to develop a statewide proposal to

administer the right to counsel for persons acquitted by reason of insanity and committed to state psychiatric care.

In response to the office's proposal, the legislature intends that the office of public defense shall administer a program of statewide public defense services to ensure the right to counsel for indigent persons who are committed to state psychiatric care following acquittal by reason of insanity. The legislature intends that the office shall administer these postcommitment public defense services in a manner that provides for statewide effectiveness, efficiency, and equity.

Sec. 2. RCW 2.70.020 and 2021 c 328 s 3 are each amended to read as follows:

The director shall:

(1) Administer all state-funded services in the following program areas:

(a) Trial court criminal indigent defense, as provided in chapter 10.101 RCW;

(b) Appellate indigent defense, as provided in this chapter;

(c) Representation of indigent parents qualified for appointed counsel in dependency and termination cases, as provided in RCW 13.34.090 and 13.34.092;

(d) Extraordinary criminal justice cost petitions, as provided in RCW 43.330.190;

(e) Compilation of copies of DNA test requests by persons convicted of felonies, as provided in RCW 10.73.170;

(f) Representation of indigent respondents qualified for appointed counsel in sexually violent predator civil commitment cases, as provided in chapter 71.09 RCW; and

(g) Representation of indigent persons who are acquitted by reason of insanity and committed to state psychiatric care as provided in chapter 10.77 RCW;

(2) Provide access to attorneys for juveniles contacted by a law enforcement officer for whom a legal consultation is required under RCW 13.40.740;

((~~(2)~~)) (3) Submit a biennial budget for all costs related to the office's program areas;

((~~(3)~~)) (4) Establish administrative procedures, standards, and guidelines for the office's program areas, including cost-efficient systems that provide for authorized recovery of costs;

((~~(4)~~)) (5) Provide oversight and technical assistance to ensure the effective and efficient delivery of services in the office's program areas;

((~~(5)~~)) (6) Recommend criteria and standards for determining and verifying indigency. In recommending criteria for determining indigency, the director shall compile and review the indigency standards used by other state agencies and shall periodically submit the compilation and report to the legislature on the appropriateness and consistency of such standards;

((~~(6)~~)) (7) Collect information regarding indigent defense services funded by the state and report annually to the advisory committee, the legislature, and the supreme court;

((~~(7)~~)) (8) Coordinate with the supreme court and the judges of each division of the court of appeals to determine how appellate attorney services should be provided.

The office of public defense shall not provide direct representation of clients.

NEW SECTION. **Sec. 3.** A new section is added to chapter 2.70 RCW to read as follows:

In providing postcommitment public defense services for indigent persons who are committed to state psychiatric care following acquittal by reason of insanity under chapter 10.77 RCW, the director shall:

(1) In accordance with state contracting laws, contract with persons admitted to practice law in this state and with government or nongovernment organizations employing persons admitted to practice law in this state;

(2) Establish annual contract fees for public defense legal services within amounts appropriated;

(3) Ensure an indigent person qualified for public defense counsel has contracted counsel appointed to assist him or her;

(4) Consistent with applicable statutes, court orders, and court rules, establish office policies and procedures for the payment of expert costs, other professional and investigative costs, and litigation costs;

(5) Review and analyze existing caseload standards and make recommendations for updating caseload standards as appropriate for this area of legal practice; and

(6) Periodically, as needed, submit reports to the chief justice of the supreme court of the state of Washington, the governor, and the legislature. The purpose of such reports is to communicate new information regarding public defense services for persons who are committed following acquittal by reason of insanity under chapter 10.77 RCW and to recommend changes in statutes and court rules for the improvement of insanity commitment and postcommitment proceedings.

NEW SECTION. **Sec. 4.** A new section is added to chapter 2.70 RCW to read as follows:

(1) All powers, duties, and functions of county government and the department of social and health services pertaining to public defense services for indigent persons who are committed following acquittal by reason of insanity under chapter 10.77 RCW are transferred to the office of public defense. County government and the department of social and health services shall retain powers, duties, and functions to ensure public defense services for indigent persons prior to acquittal by reason of insanity under chapter 10.77 RCW.

(2)(a) The office of public defense may request copies of records in the possession of a county public defense administrator, the department of social and health services, or the behavioral health administration pertaining to the powers, functions, and duties transferred, which shall be timely delivered to the custody of the office of public defense. In order to implement the office's administration and oversight of postcommitment public defense services authorized by this act, the office of public defense shall be entitled to personal identifying information for any person committed following acquittal by reason of insanity, as well as information about underlying criminal or other pending court proceedings, and the identity of any existing legal counsel. The county public defense administrator, the department of social and health services, or the behavioral health administration shall not require the office of public defense to obtain consent by the person committed following acquittal by reason of insanity in

order to share this information. The office of public defense shall maintain the confidentiality of all confidential information included in the records. Records may be transferred electronically or in hard copy, as agreed by the agencies. When the office of public defense has satisfied its business needs related to the transferred records, the office shall destroy the records following appropriate procedures.

(b) All funds, credits, or other assets held by the department of social and health services in connection with the powers, functions, and duties transferred shall be assigned to the office of public defense.

(c) Any appropriations made to the department of social and health services for carrying out the powers, functions, and duties transferred shall, on July 1, 2023, be transferred and credited to the office of public defense.

(3) Notwithstanding July 1, 2023, if implementation of office of public defense contracts would result in the substitution of counsel within 180 days of a scheduled hearing, the director of the office of public defense may continue defense services with existing counsel to facilitate continuity of effective representation and avoid further continuance of a trial. When existing counsel is maintained, payment to complete the trial shall be prorated based on standard contract fees established by the office of public defense under this act and, at the director's discretion, may include extraordinary compensation based on attorney documentation.

Sec. 5. RCW 10.77.010 and 2022 c 288 s 1 are each reenacted and amended to read as follows:

As used in this chapter:

(1) "Admission" means acceptance based on medical necessity, of a person as a patient.

(2) "Authority" means the Washington state health care authority.

(3) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less-restrictive setting.

(4) "Community behavioral health agency" has the same meaning as "licensed or certified behavioral health agency" defined in RCW 71.24.025.

(5) "Conditional release" means modification of a court-ordered commitment, which may be revoked upon violation of any of its terms.

(6) A "criminally insane" person means any person who has been acquitted of a crime charged by reason of insanity, and thereupon found to be a substantial danger to other persons or to present a substantial likelihood of committing criminal acts jeopardizing public safety or security unless kept under further control by the court or other persons or institutions.

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

(8) "Designated crisis responder" has the same meaning as provided in RCW 71.05.020.

(9) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter, pending evaluation.

(10) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist or psychologist, or a social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary.

(11) "Developmental disability" means the condition as defined in RCW 71A.10.020((~~(5)~~)).

(12) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order.

(13) "Furlough" means an authorized leave of absence for a resident of a state institution operated by the department designated for the custody, care, and treatment of the criminally insane, consistent with an order of conditional release from the court under this chapter, without any requirement that the resident be accompanied by, or be in the custody of, any law enforcement or institutional staff, while on such unescorted leave.

(14) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the person being assisted as manifested by prior charged criminal conduct.

(15) "History of one or more violent acts" means violent acts committed during: (a) The ((~~ten-year~~)) 10-year period of time prior to the filing of criminal charges; plus (b) the amount of time equal to time spent during the ((~~ten-year~~)) 10-year period in a mental health facility or in confinement as a result of a criminal conviction.

(16) "Immediate family member" means a spouse, child, stepchild, parent, stepparent, grandparent, sibling, or domestic partner.

(17) "Incompetency" means a person lacks the capacity to understand the nature of the proceedings against him or her or to assist in his or her own defense as a result of mental disease or defect.

(18) "Indigent" means any person who is indigent as defined in RCW 10.101.010, or financially unable to obtain counsel or other necessary expert or professional services without causing substantial hardship to the person or his or her family.

(19) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for an individual with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual release, and a projected possible date for release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences.

(20) "Professional person" means:

(a) A psychiatrist licensed as a physician and surgeon in this state who has, in addition, completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology or the American osteopathic board of neurology and psychiatry;

(b) A psychologist licensed as a psychologist pursuant to chapter 18.83 RCW;

(c) A psychiatric advanced registered nurse practitioner, as defined in RCW 71.05.020; or

(d) A social worker with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010.

(21) "Release" means legal termination of the court-ordered commitment under the provisions of this chapter.

(22) "Secretary" means the secretary of the department of social and health services or his or her designee.

(23) "Treatment" means any currently standardized medical or mental health procedure including medication.

(24) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by behavioral health administrative services organizations and their staffs, by managed care organizations and their staffs, and by treatment facilities. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, behavioral health administrative services organizations, managed care organizations, or a treatment facility if the notes or records are not available to others.

(25) "Violent act" means behavior that: (a)(i) Resulted in; (ii) if completed as intended would have resulted in; or (iii) was threatened to be carried out by a person who had the intent and opportunity to carry out the threat and would have resulted in, homicide, nonfatal injuries, or substantial damage to property; or (b) recklessly creates an immediate risk of serious physical injury to another person. As used in this subsection, "nonfatal injuries" means physical pain or injury, illness, or an impairment of physical condition. "Nonfatal injuries" shall be construed to be consistent with the definition of "bodily injury," as defined in RCW 9A.04.110.

Sec. 6. RCW 10.77.020 and 2006 c 109 s 1 are each amended to read as follows:

(1) At any and all stages of the proceedings pursuant to this chapter, any person subject to the provisions of this chapter shall be entitled to the assistance of counsel, and if the person is indigent the court shall appoint counsel to assist him or her. Prior to acquittal by reason of insanity under this chapter, the court shall appoint counsel administered by the county where the criminal charges are filed.

At the time an indigent individual is acquitted by reason of insanity and is committed to state psychiatric care, the court shall immediately notify the Washington state office of public defense of the need for representation during

the term of commitment. The office of public defense shall provide counsel to represent the person throughout the term of commitment, including during any period of conditional release, until legal termination of commitment and final unconditional release, as provided in chapter 2.70 RCW.

(2) A person may waive his or her right to counsel; but such waiver shall only be effective if a court makes a specific finding that he or she is or was competent to so waive. In making such findings, the court shall be guided but not limited by the following standards: Whether the person attempting to waive the assistance of counsel, does so understanding:

(a) The nature of the charges;

(b) The statutory offense included within them;

(c) The range of allowable punishments thereunder;

(d) Possible defenses to the charges and circumstances in mitigation thereof; and

(e) All other facts essential to a broad understanding of the whole matter.

((~~(2)~~)) (3) Whenever any person is subjected to an examination pursuant to any provision of this chapter, he or she may retain an expert or professional person to perform an examination in his or her behalf. In the case of a person who is indigent, the court shall upon his or her request assist the person in obtaining an expert or professional person to perform an examination or participate in the hearing on his or her behalf. An expert or professional person obtained by an indigent person pursuant to the provisions of this chapter shall be compensated for his or her services out of funds of the department, in an amount determined by the secretary to be fair and reasonable, except that an expert or professional person obtained by a person who is committed following acquittal by reason of insanity and committed to state psychiatric care shall be compensated out of funds of the office of public defense as provided in policies and procedures under chapter 2.70 RCW, in a manner consistent with the rules of professional conduct and the standards for indigent defense.

((~~(3)~~)) (4) Any time the defendant is being examined by court appointed experts or professional persons pursuant to the provisions of this chapter, the defendant shall be entitled to have his or her attorney present.

((~~(4)~~)) (5) In a competency evaluation conducted under this chapter, the defendant may refuse to answer any question if he or she believes his or her answers may tend to incriminate him or her or form links leading to evidence of an incriminating nature.

((~~(5)~~)) (6) In a sanity evaluation conducted under this chapter, if a defendant refuses to answer questions or to participate in an examination conducted in response to the defendant's assertion of an insanity defense, the court shall exclude from evidence at trial any testimony or evidence from any expert or professional person obtained or retained by the defendant.

Sec. 7. RCW 10.77.140 and 1998 c 297 s 40 are each amended to read as follows:

(1) Each person committed to a hospital or other facility or conditionally released pursuant to this chapter shall have a current examination of his or her mental condition made by one or more experts or professional persons at least once every six months. The person may retain, or if the person is indigent and so requests, the court ((~~may appoint~~)) shall assist the person in obtaining a qualified expert or professional person to examine him or her, and such expert or

professional person shall have access to all hospital records concerning the person. An expert or professional person obtained by an indigent person who is committed to state psychiatric care following acquittal by reason of insanity shall be compensated out of funds of the office of public defense as provided in policies and procedures under chapter 2.70 RCW, in a manner consistent with the rules of professional conduct and the standards for indigent defense.

(2) In the case of a committed or conditionally released person who ((~~is developmentally disabled~~)) has a developmental disability, the expert shall be a developmental disabilities professional. The secretary, upon receipt of the periodic report, shall provide written notice to the court of commitment of compliance with the requirements of this section.

Sec. 8. RCW 10.77.150 and 2021 c 263 s 1 are each amended to read as follows:

(1) Persons examined pursuant to RCW 10.77.140 may make application to the secretary for conditional release. The secretary shall, after considering the reports of experts or professional persons conducting the examination pursuant to RCW 10.77.140, forward to the court of the county which ordered the person's commitment the person's application for conditional release as well as the secretary's recommendations concerning the application and any proposed terms and conditions upon which the secretary reasonably believes the person can be conditionally released. Conditional release may also contemplate partial release for work, training, or educational purposes.

(2) In instances in which persons examined pursuant to RCW 10.77.140 have not made application to the secretary for conditional release, but the secretary, after considering the reports of experts or professional persons conducting the examination pursuant to RCW 10.77.140, reasonably believes the person may be conditionally released, the secretary may submit a recommendation for release to the court of the county that ordered the person's commitment. The secretary's recommendation must include any proposed terms and conditions upon which the secretary reasonably believes the person may be conditionally released. Conditional release may also include partial release for work, training, or educational purposes. Notice of the secretary's recommendation under this subsection must be provided to the person for whom the secretary has made the recommendation for release and to his or her attorney.

(3)(a) The court of the county which ordered the person's commitment, upon receipt of an application or recommendation for conditional release with the secretary's recommendation for conditional release terms and conditions, shall within ((~~thirty~~)) 30 days schedule a hearing. The court may schedule a hearing on applications recommended for disapproval by the secretary.

(b) The prosecuting attorney shall represent the state at such hearings and shall have the right to have the person examined by an expert or professional person of the prosecuting attorney's choice. If the committed person is indigent, and he or she so requests, the court shall ((~~appoint~~)) assist the person in obtaining a qualified expert or professional person to examine the person on his or her behalf. An expert or professional person obtained by an indigent person who is committed to state psychiatric care following acquittal by reason of insanity shall be compensated out of funds of the office of public defense as provided in policies and procedures under chapter 2.70 RCW, in a manner

consistent with the rules of professional conduct and the standards for indigent defense.

(c) The issue to be determined at such a hearing is whether or not the person may be released conditionally to less restrictive alternative treatment under the supervision of a multidisciplinary transition team under conditions imposed by the court, including access to services under RCW 10.77.175 without substantial danger to other persons, or substantial likelihood of committing criminal acts jeopardizing public safety or security.

(d) In cases that come before the court under subsection (1) or (2) of this section, the court may deny conditional release to a less restrictive alternative only on the basis of substantial evidence. The court may modify the suggested terms and conditions on which the person is to be conditionally released. Pursuant to the determination of the court after hearing, the committed person shall thereupon be released on such conditions as the court determines to be necessary, or shall be remitted to the custody of the secretary.

(4) If the order of conditional release provides for the conditional release of the person to a less restrictive alternative, including residential treatment or treatment in the community, the conditional release order must also include:

(a) A requirement for the committed person to be supervised by a multidisciplinary transition team, including a specially trained community corrections officer, a representative of the department of social and health services, and a representative of the community behavioral health agency providing treatment to the person under RCW 10.77.175.

(i) The court may omit appointment of the representative of the community behavioral health agency if the conditional release order does not require participation in behavioral health treatment;

(ii) The court may omit the appointment of a community corrections officer if it makes a special finding that the appointment of a community corrections officer would not facilitate the success of the person, or the safety of the person and the community;

(b) A requirement for the person to comply with conditions of supervision established by the court which shall include at a minimum reporting as directed to a designated member of the transition team, remaining within prescribed geographical boundaries, and notifying the transition team prior to making any change in the person's address or employment. If the person is not in compliance with the court-ordered conditions of release, the community corrections officer or another designated transition team member shall notify the secretary or the secretary's designee; and

(c) If the court requires participation in behavioral health treatment, the name of the licensed or certified behavioral health agency responsible for identifying the services the person will receive under RCW 10.77.175, and a requirement that the person cooperate with the services planned by the licensed or certified behavioral health agency. The licensed or certified behavioral health agency must comply with the reporting requirements of RCW 10.77.160, and must immediately report to the court, prosecutor, and defense counsel any substantial withdrawal or disengagement from medication or treatment, or any change in the person's mental health condition that renders him or her a potential risk to the public.

(5) The role of the transition team appointed under subsection (4) of this section shall be to facilitate the success of the person on the conditional release order by monitoring the person's progress in treatment, compliance with court-ordered conditions, and to problem solve around extra support the person may need or circumstances that may arise that threaten the safety of the person or the community. The transition team may develop a monitoring plan that may be carried out by any member of the team. The transition team shall meet according to a schedule developed by the team, and shall communicate as needed if issues arise that require the immediate attention of the team.

(6) The department of corrections shall collaborate with the department to develop specialized training for community corrections officers under this section. The lack of a trained community corrections officer must not be the cause of delay to entry of a conditional release order. Another community corrections officer may be appointed if no specially trained officer is available.

(7) Any person, whose application for conditional release has been denied, may reapply after a period of six months from the date of denial, or sooner with the support of the department.

(8) A person examined under RCW 10.77.140 or the department may make a motion for limited conditional release under this section, on the grounds that there is insufficient evidence that the person may be released conditionally to less restrictive alternative treatment under subsection (3)(c) of this section, but the person would benefit from the opportunity to exercise increased privileges while remaining under the custody and supervision of the department and with the supervision of the department these increased privileges can be exercised without substantial danger to other persons or substantial likelihood of committing criminal acts jeopardizing public safety or security. The department may respond to a person's application for conditional release by instead supporting limited conditional release.

Sec. 9. RCW 10.77.165 and 2011 c 305 s 6 are each amended to read as follows:

(1) In the event of an escape by a person committed under this chapter from a state facility or the disappearance of such a person on conditional release or other authorized absence, the superintendent shall provide notification of the person's escape or disappearance for the public's safety or to assist in the apprehension of the person.

(a) The superintendent shall notify:

(i) State and local law enforcement officers located in the city and county where the person escaped and in the city and county which had jurisdiction of the person on the date of the applicable offense;

(ii) Other appropriate governmental agencies; ((~~and~~))

(iii) The person's attorney of record; and

(iv) The person's relatives.

(b) The superintendent shall provide the same notification as required by (a) of this subsection to the following, if such notice has been requested in writing about a specific person committed under this chapter:

(i) The victim of the crime for which the person was convicted or the victim's next of kin if the crime was a homicide;

(ii) Any witnesses who testified against the person in any court proceedings if the person was charged with a violent offense; and

(iii) Any other appropriate persons.

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

(3) The notice provisions of this section are in addition to those provided in RCW 10.77.205.

Sec. 10. RCW 10.77.180 and 1998 c 297 s 42 are each amended to read as follows:

Each person conditionally released pursuant to RCW 10.77.150 shall have his or her case reviewed by the court which conditionally released him or her no later than one year after such release and no later than every two years thereafter, such time to be scheduled by the court. Review may occur in a shorter time or more frequently, if the court, in its discretion, on its own motion, or on motion of the person, the secretary of social and health services, the secretary of corrections, medical or mental health practitioner, or the prosecuting attorney, so determines. The sole question to be determined by the court is whether the person shall continue to be conditionally released. The court in making its determination shall be aided by the periodic reports filed pursuant to RCW 10.77.140 and 10.77.160, and the opinions of the secretary and other experts or professional persons. If the conditionally released person is indigent, and so requests, the court shall assist the person in obtaining a qualified expert or professional person to examine the person on his or her behalf. An expert or professional person obtained by a conditionally released indigent person who was committed to state psychiatric care following acquittal by reason of insanity shall be compensated out of funds of the office of public defense as provided in policies and procedures under chapter 2.70 RCW, in a manner consistent with the rules of professional conduct and the standards for indigent defense.

Sec. 11. RCW 10.77.190 and 2010 c 263 s 7 are each amended to read as follows:

(1) Any person submitting reports pursuant to RCW 10.77.160, the secretary, or the prosecuting attorney may petition the court to, or the court on its own motion may schedule an immediate hearing for the purpose of modifying the terms of conditional release if the petitioner or the court believes the released person is failing to adhere to the terms and conditions of his or her conditional release or is in need of additional care and treatment.

(2) If the prosecuting attorney, the secretary of social and health services, the secretary of corrections, or the court, after examining the report filed with them pursuant to RCW 10.77.160, or based on other information received by them, reasonably believes that a conditionally released person is failing to adhere to the terms and conditions of his or her conditional release the court or secretary of social and health services or the secretary of corrections may order that the conditionally released person be apprehended and taken into custody. The court and the person's attorney of record shall be notified of the apprehension before the close of the next judicial day. The court shall schedule a hearing within ((~~thirty~~)) 30 days to determine whether or not the person's conditional release should be modified or revoked. Both the prosecuting attorney and the conditionally released person shall have the right to request an

immediate mental examination of the conditionally released person. If the conditionally released person is indigent, and so requests, the court ((~~or secretary of social and health services or the secretary of corrections or their designees shall, upon request, assist him or her in obtaining a qualified expert or professional person to conduct the examination~~)) shall assist the person in obtaining a qualified expert or professional person to examine the person on his or her own behalf. An expert or professional person obtained by a conditionally released indigent person who was committed into state psychiatric care following acquittal by reason of insanity shall be compensated out of funds of the office of public defense as provided in policies and procedures under chapter 2.70 RCW, in a manner consistent with the rules of professional conduct and the standards for indigent defense.

(3) If the hospital or facility designated to provide outpatient care determines that a conditionally released person presents a threat to public safety, the hospital or facility shall immediately notify the secretary of social and health services or the secretary of corrections or their designees. The secretary shall order that the conditionally released person be apprehended and taken into custody.

(4) The court, upon receiving notification of the apprehension, shall promptly schedule a hearing. The issue to be determined is whether the conditionally released person did or did not adhere to the terms and conditions of his or her release, or whether the person presents a threat to public safety. Pursuant to the determination of the court upon such hearing, the conditionally released person shall either continue to be conditionally released on the same or modified conditions or his or her conditional release shall be revoked and he or she shall be committed subject to release only in accordance with provisions of this chapter.

Sec. 12. RCW 10.77.200 and 2013 c 289 s 7 are each amended to read as follows:

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

(2) In instances in which persons have not made application for release, but the secretary believes, after consideration of the reports filed under RCW 10.77.060, 10.77.110, 10.77.140, and 10.77.160, and other reports and evaluations provided by professionals familiar with the case, that reasonable grounds exist for release, the secretary may petition the court. If the secretary petitions the court for release under this subsection, notice of the petition must be provided to the person who is the subject of the petition and to his or her attorney.

(3) The petition shall be served upon the court and the prosecuting attorney. The court, upon receipt of the petition for release, shall within ((~~forty-five~~)) 45 days order a hearing. Continuance of the hearing date shall only be allowed for good cause shown. The prosecuting attorney shall represent the state, and shall have the right to have the person who is the subject of the petition examined by

an expert or professional person of the prosecuting attorney's choice. If the secretary is the petitioner, the attorney general shall represent the secretary. If the person who is the subject of the petition is indigent, and the person so requests, the court shall ((~~appoint~~)) assist the person in obtaining a qualified expert or professional person to examine him or her. An expert or professional person obtained by an indigent person who was committed to state psychiatric care following acquittal by reason of insanity shall be compensated out of funds of the office of public defense as provided in policies and procedures under chapter 2.70 RCW, in a manner consistent with the rules of professional conduct and the standards for indigent defense. If the person who is the subject of the petition has a developmental disability, the examination shall be performed by a developmental disabilities professional. The hearing shall be before a jury if demanded by either the petitioner or the prosecuting attorney. The burden of proof shall be upon the petitioner to show by a preponderance of the evidence that the person who is the subject of the petition no longer presents, as a result of a mental disease or defect, a substantial danger to other persons, or a substantial likelihood of committing criminal acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions. If the person who is the subject of the petition will be transferred to a state correctional institution or facility upon release to serve a sentence for any class A felony, the petitioner must show that the person's mental disease or defect is manageable within a state correctional institution or facility, but must not be required to prove that the person does not present either a substantial danger to other persons, or a substantial likelihood of committing criminal acts jeopardizing public safety or security, if released.

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

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

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

Sec. 13. RCW 10.77.205 and 2009 c 521 s 27 are each amended to read as follows:

(1)(a) At the earliest possible date, and in no event later than ((~~thirty~~)) 30 days before conditional release, release, authorized furlough pursuant to RCW 10.77.163, or transfer to a less-restrictive facility than a state mental hospital, the superintendent shall send written notice of the conditional release, release, authorized furlough, or transfer of a person who has been found not guilty of a sex, violent, or felony harassment offense by reason of insanity and who is now in the custody of the department pursuant to this chapter, to the following:

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

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

(b) The same notice as required by (a) of this subsection shall be sent to the following, if such notice has been requested in writing about a specific person committed under this chapter:

(i) The victim of the crime for which the person was committed or the victim's next of kin if the crime was a homicide;

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

(iii) Any person specified in writing by the prosecuting attorney.

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

(c) In addition to the notice requirements of (a) and (b) of this subsection, the superintendent shall comply with RCW 10.77.163.

(d) The ((~~thirty-day~~)) 30-day notice requirement contained in (a) and (b) of this subsection shall not apply to emergency medical furloughs.

(e) The existence of the notice requirements in (a) and (b) of this subsection shall not require any extension of the release date in the event the release plan changes after notification.

(2) If a person who has been found not guilty of a sex, violent, or felony harassment offense by reason of insanity and who is committed under this chapter escapes, the superintendent shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the person resided immediately before the person's arrest, and the person's attorney of record. If previously requested, the superintendent shall also notify the witnesses and the victim, if any, of the crime for which the person was committed or the victim's next of kin if the crime was a homicide. The superintendent shall also notify appropriate persons pursuant to RCW 10.77.165. If the person is recaptured, the secretary shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

(3) If the victim, the victim's next of kin, or any witness is under the age of ((~~sixteen~~)) 16, the notice required by this section shall be sent to the parents or legal guardian of the child.

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

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

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

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

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

(d) "Authorized furlough" means a furlough granted after compliance with RCW 10.77.163;

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

Sec. 14. RCW 10.77.250 and 2022 c 288 s 6 are each amended to read as follows:

(1) Within amounts appropriated, the department shall be responsible for all costs relating to the evaluation and inpatient treatment of persons committed to it pursuant to any provisions of this chapter, and the logistical and supportive services pertaining thereto except as otherwise provided by law. Reimbursement may be obtained by the department pursuant to RCW 43.20B.330.

(2) Within amounts appropriated, the authority shall be responsible for all costs relating to outpatient competency restoration programs.

(3) The office of public defense shall be responsible for costs of public defense services, including defense expert and professional services, for indigent persons acquitted by reason of insanity throughout the term of their commitment to state psychiatric care, including during any period of conditional release, until legal termination of commitment and final unconditional release.

NEW SECTION. **Sec. 15.** 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.

Passed by the Senate March 6, 2023.
Passed by the House April 7, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 121

[Senate Bill 5452]

IMPACT FEE REVENUE—BICYCLE AND PEDESTRIAN FACILITIES

AN ACT Relating to authorizing impact fee revenue to fund improvements to bicycle and pedestrian facilities; amending RCW 82.02.090; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that increasing numbers of people are utilizing transportation and commuting options that do not primarily involve the use of public roadways. These options include trails designed to allow for transportation and commuting without the use of motorized transport. These transportation and commuting options provide numerous benefits, including a reduction in greenhouse gas emissions and enhanced connection between communities and job centers. The continued expansion of these options requires the construction and use of public facilities for pedestrians and bicyclists.

Currently, however, the resources that local governments can use for these facilities may be limited, and local governments may be unable to use impact fees related to transportation for public facilities outside of public streets and

roads. It is the intent of the legislature to provide local governments with increased flexibility in utilizing impact fees in order to provide the funding and facilities necessary for the continued growth and success of such modern commuting options.

Sec. 2. RCW 82.02.090 and 2018 c 133 s 1 are each amended to read as follows:

The definitions in this section apply throughout this section and RCW 82.02.050 through ((~~82.02.090~~)) 82.02.080 unless the context clearly requires otherwise.

(1) "Development activity" means any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any changes in the use of land, that creates additional demand and need for public facilities. "Development activity" does not include:

(a) Buildings or structures constructed by a regional transit authority; or

(b) Buildings or structures constructed as shelters that provide emergency housing for people experiencing homelessness, or emergency shelters for victims of domestic violence, as defined in RCW 70.123.020.

(2) "Development approval" means any written authorization from a county, city, or town which authorizes the commencement of development activity.

(3) "Impact fee" means a payment of money imposed upon development as a condition of development approval to pay for public facilities needed to serve new growth and development, and that is reasonably related to the new development that creates additional demand and need for public facilities, that is a proportionate share of the cost of the public facilities, and that is used for facilities that reasonably benefit the new development. "Impact fee" does not include a reasonable permit or application fee.

(4) "Owner" means the owner of record of real property, although when real property is being purchased under a real estate contract, the purchaser is considered the owner of the real property if the contract is recorded.

(5) "Project improvements" mean site improvements and facilities that are planned and designed to provide service for a particular development project and that are necessary for the use and convenience of the occupants or users of the project, and are not system improvements. An improvement or facility included in a capital facilities plan approved by the governing body of the county, city, or town is not considered a project improvement.

(6) "Proportionate share" means that portion of the cost of public facility improvements that are reasonably related to the service demands and needs of new development.

(7) "Public facilities" means the following capital facilities owned or operated by government entities: (a) Public streets ((~~and~~)), roads, and bicycle and pedestrian facilities that were designed with multimodal commuting as an intended use; (b) publicly owned parks, open space, and recreation facilities; (c) school facilities; and (d) fire protection facilities.

(8) "Service area" means a geographic area defined by a county, city, town, or intergovernmental agreement in which a defined set of public facilities provide service to development within the area. Service areas must be designated on the basis of sound planning or engineering principles.

(9) "System improvements" mean public facilities that are included in the capital facilities plan and are designed to provide service to service areas within the community at large, in contrast to project improvements.

Passed by the Senate February 28, 2023.
Passed by the House April 7, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 122

[Substitute Senate Bill 5453]
FEMALE GENITAL MUTILATION

AN ACT Relating to female genital mutilation; amending RCW 18.130.180 and 9A.04.080; reenacting and amending RCW 26.44.020; adding new sections to chapter 9A.36 RCW; adding a new section to chapter 18.130 RCW; adding a new section to chapter 43.70 RCW; creating a new section; prescribing penalties; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature finds that over 500,000 women in the United States are at risk of or have undergone female genital mutilation. The existence, incidence, and effects of female genital mutilation is often shrouded in secrecy. Federal law prohibits the performance of female genital mutilation in the United States.

(2) The legislature intends to create a private right of action for victims of female genital mutilation and create a disciplinary violation under the uniform disciplinary act. The legislature further intends to establish education and outreach initiatives to prevent female genital mutilation, and provide care for victims of female genital mutilation.

NEW SECTION. **Sec. 2.** A new section is added to chapter 9A.36 RCW to read as follows:

(1) A victim of female genital mutilation under section 7 of this act may bring a civil cause of action against the person who committed the female genital mutilation for economic and noneconomic damages, punitive damages, and reasonable attorneys' fees and costs incurred in bringing the action.

(2) A civil cause of action for female genital mutilation under this section must be commenced within 10 years of the acts alleged to have caused the injury. However, the time limit for commencement of an action under this section shall be tolled for a minor until the minor reaches the age of 18 years.

(3) For purposes of this section, "female genital mutilation" means any procedure performed for nonmedical reasons that involves partial or total removal of, or other injury to, the external female genitalia, including but not limited to a clitoridectomy or the partial or total removal of the clitoris or the prepuce or clitoral hood, excision or the partial or total removal (with or without excision of the clitoris) of the labia minora or the labia majora, or both, infibulation or the narrowing of the vaginal opening (with or without excision of the clitoris), or other procedures that are harmful to the external female genitalia, including pricking, incising, scraping, or cauterizing the genital area.

NEW SECTION. **Sec. 3.** A new section is added to chapter 18.130 RCW to read as follows:

(1) A health care provider licensed under this title shall not perform any procedure constituting female genital mutilation on a minor.

(2) A licensed health care provider who violates subsection (1) of this section is subject to discipline under this chapter.

(3) For purposes of this section:

(a) "Female genital mutilation" means any procedure performed for nonmedical reasons that involves partial or total removal of, or other injury to, the external female genitalia, including but not limited to a clitoridectomy or the partial or total removal of the clitoris or the prepuce or clitoral hood, excision or the partial or total removal (with or without excision of the clitoris) of the labia minora or the labia majora, or both, infibulation or the narrowing of the vaginal opening (with or without excision of the clitoris), or other procedures that are harmful to the external female genitalia, including pricking, incising, scraping, or cauterizing the genital area; and

(b) "Minor" means any person under the age of 18.

Sec. 4. RCW 18.130.180 and 2021 c 157 s 7 are each amended to read as follows:

The following conduct, acts, or conditions constitute unprofessional conduct for any license holder under the jurisdiction of this chapter:

(1) The commission of any act involving moral turpitude, dishonesty, or corruption relating to the practice of the person's profession, whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon such a conviction, however, the judgment and sentence is conclusive evidence at the ensuing disciplinary hearing of the guilt of the license holder of the crime described in the indictment or information, and of the person's violation of the statute on which it is based. For the purposes of this section, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

(2) Misrepresentation or concealment of a material fact in obtaining a license or in reinstatement thereof;

(3) All advertising which is false, fraudulent, or misleading;

(4) Incompetence, negligence, or malpractice which results in injury to a patient or which creates an unreasonable risk that a patient may be harmed. The use of a nontraditional treatment by itself shall not constitute unprofessional conduct, provided that it does not result in injury to a patient or create an unreasonable risk that a patient may be harmed;

(5) Suspension, revocation, or restriction of the individual's license to practice any health care profession by competent authority in any state, federal, or foreign jurisdiction, a certified copy of the order, stipulation, or agreement being conclusive evidence of the revocation, suspension, or restriction;

(6) Except when authorized by RCW 18.130.345, the possession, use, prescription for use, or distribution of controlled substances or legend drugs in any way other than for legitimate or therapeutic purposes, diversion of controlled substances or legend drugs, the violation of any drug law, or prescribing controlled substances for oneself;

(7) Violation of any state or federal statute or administrative rule regulating the profession in question, including any statute or rule defining or establishing standards of patient care or professional conduct or practice;

(8) Failure to cooperate with the disciplining authority by:

(a) Not furnishing any papers, documents, records, or other items;

(b) Not furnishing in writing a full and complete explanation covering the matter contained in the complaint filed with the disciplining authority;

(c) Not responding to subpoenas issued by the disciplining authority, whether or not the recipient of the subpoena is the accused in the proceeding; or

(d) Not providing reasonable and timely access for authorized representatives of the disciplining authority seeking to perform practice reviews at facilities utilized by the license holder;

(9) Failure to comply with an order issued by the disciplining authority or a stipulation for informal disposition entered into with the disciplining authority;

(10) Aiding or abetting an unlicensed person to practice when a license is required;

(11) Violations of rules established by any health agency;

(12) Practice beyond the scope of practice as defined by law or rule;

(13) Misrepresentation or fraud in any aspect of the conduct of the business or profession;

(14) Failure to adequately supervise auxiliary staff to the extent that the consumer's health or safety is at risk;

(15) Engaging in a profession involving contact with the public while suffering from a contagious or infectious disease involving serious risk to public health;

(16) Promotion for personal gain of any unnecessary or inefficacious drug, device, treatment, procedure, or service;

(17) Conviction of any gross misdemeanor or felony relating to the practice of the person's profession. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

(18) The procuring, or aiding or abetting in procuring, a criminal abortion;

(19) The offering, undertaking, or agreeing to cure or treat disease by a secret method, procedure, treatment, or medicine, or the treating, operating, or prescribing for any health condition by a method, means, or procedure which the licensee refuses to divulge upon demand of the disciplining authority;

(20) The willful betrayal of a practitioner-patient privilege as recognized by law;

(21) Violation of chapter 19.68 RCW or a pattern of violations of RCW 41.05.700(8), 48.43.735(8), 48.49.020, 48.49.030, 71.24.335(8), or 74.09.325(8);

(22) Interference with an investigation or disciplinary proceeding by willful misrepresentation of facts before the disciplining authority or its authorized representative, or by the use of threats or harassment against any patient or witness to prevent them from providing evidence in a disciplinary proceeding or any other legal action, or by the use of financial inducements to any patient or

witness to prevent or attempt to prevent him or her from providing evidence in a disciplinary proceeding;

(23) Current misuse of:

(a) Alcohol;

(b) Controlled substances; or

(c) Legend drugs;

(24) Abuse of a client or patient or sexual contact with a client or patient;

(25) Acceptance of more than a nominal gratuity, hospitality, or subsidy offered by a representative or vendor of medical or health-related products or services intended for patients, in contemplation of a sale or for use in research publishable in professional journals, where a conflict of interest is presented, as defined by rules of the disciplining authority, in consultation with the department, based on recognized professional ethical standards;

(26) Violation of RCW 18.130.420;

(27) Performing conversion therapy on a patient under age eighteen;

(28) Violation of RCW 18.130.430;

(29) Violation of section 3 of this act.

Sec. 5. RCW 26.44.020 and 2021 c 215 s 142 and 2021 c 67 s 3 are each reenacted and amended to read as follows:

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

(1) "Abuse or neglect" means sexual abuse, sexual exploitation, female genital mutilation as defined in section 3 of this act, or injury of a child by any person under circumstances which cause harm to the child's health, welfare, or safety, excluding conduct permitted under RCW 9A.16.100; or the negligent treatment or maltreatment of a child by a person responsible for or providing care to the child. An abused child is a child who has been subjected to child abuse or neglect as defined in this section.

(2) "Child" or "children" means any person under the age of eighteen years of age.

(3) "Child forensic interview" means a developmentally sensitive and legally sound method of gathering factual information regarding allegations of child abuse, child neglect, or exposure to violence. This interview is conducted by a competently trained, neutral professional utilizing techniques informed by research and best practice as part of a larger investigative process.

(4) "Child protective services" means those services provided by the department designed to protect children from child abuse and neglect and safeguard such children from future abuse and neglect, and conduct investigations of child abuse and neglect reports. Investigations may be conducted regardless of the location of the alleged abuse or neglect. Child protective services includes referral to services to ameliorate conditions that endanger the welfare of children, the coordination of necessary programs and services relevant to the prevention, intervention, and treatment of child abuse and neglect, and services to children to ensure that each child has a permanent home. In determining whether protective services should be provided, the department shall not decline to provide such services solely because of the child's unwillingness or developmental inability to describe the nature and severity of the abuse or neglect.

(5) "Child protective services section" means the child protective services section of the department.

(6) "Child who is a candidate for foster care" means a child who the department identifies as being at imminent risk of entering foster care but who can remain safely in the child's home or in a kinship placement as long as services or programs that are necessary to prevent entry of the child into foster care are provided, and includes but is not limited to a child whose adoption or guardianship arrangement is at risk of a disruption or dissolution that would result in a foster care placement. The term includes a child for whom there is reasonable cause to believe that any of the following circumstances exist:

(a) The child has been abandoned by the parent as defined in RCW 13.34.030 and the child's health, safety, and welfare is seriously endangered as a result;

(b) The child has been abused or neglected as defined in this chapter and the child's health, safety, and welfare is seriously endangered as a result;

(c) There is no parent capable of meeting the child's needs such that the child is in circumstances that constitute a serious danger to the child's development;

(d) The child is otherwise at imminent risk of harm.

(7) "Children's advocacy center" means a child-focused facility in good standing with the state chapter for children's advocacy centers and that coordinates a multidisciplinary process for the investigation, prosecution, and treatment of sexual and other types of child abuse. Children's advocacy centers provide a location for forensic interviews and coordinate access to services such as, but not limited to, medical evaluations, advocacy, therapy, and case review by multidisciplinary teams within the context of county protocols as defined in RCW 26.44.180 and 26.44.185.

(8) "Clergy" means any regularly licensed or ordained minister, priest, or rabbi of any church or religious denomination, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(9) "Court" means the superior court of the state of Washington, juvenile department.

(10) "Department" means the department of children, youth, and families.

(11) "Experiencing homelessness" means lacking a fixed, regular, and adequate nighttime residence, including circumstances such as sharing the housing of other persons due to loss of housing, economic hardship, fleeing domestic violence, or a similar reason as described in the federal McKinney-Vento homeless assistance act (Title 42 U.S.C., chapter 119, subchapter I) as it existed on January 1, 2021.

(12) "Family assessment" means a comprehensive assessment of child safety, risk of subsequent child abuse or neglect, and family strengths and needs that is applied to a child abuse or neglect report. Family assessment does not include a determination as to whether child abuse or neglect occurred, but does determine the need for services to address the safety of the child and the risk of subsequent maltreatment.

(13) "Family assessment response" means a way of responding to certain reports of child abuse or neglect made under this chapter using a differential response approach to child protective services. The family assessment response

shall focus on the safety of the child, the integrity and preservation of the family, and shall assess the status of the child and the family in terms of risk of abuse and neglect including the parent's or guardian's or other caretaker's capacity and willingness to protect the child and, if necessary, plan and arrange the provision of services to reduce the risk and otherwise support the family. No one is named as a perpetrator, and no investigative finding is entered in the record as a result of a family assessment.

(14) "Founded" means the determination following an investigation by the department that, based on available information, it is more likely than not that child abuse or neglect did occur.

(15) "Inconclusive" means the determination following an investigation by the department of social and health services, prior to October 1, 2008, that based on available information a decision cannot be made that more likely than not, child abuse or neglect did or did not occur.

(16) "Institution" means a private or public hospital or any other facility providing medical diagnosis, treatment, or care.

(17) "Law enforcement agency" means the police department, the prosecuting attorney, the state patrol, the director of public safety, or the office of the sheriff.

(18) "Malice" or "maliciously" means an intent, wish, or design to intimidate, annoy, or injure another person. Such malice may be inferred from an act done in willful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a willful disregard of social duty.

(19) "Negligent treatment or maltreatment" means an act or a failure to act, or the cumulative effects of a pattern of conduct, behavior, or inaction, that evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to a child's health, welfare, or safety, including but not limited to conduct prohibited under RCW 9A.42.100. When considering whether a clear and present danger exists, evidence of a parent's substance abuse as a contributing factor to negligent treatment or maltreatment shall be given great weight. The fact that siblings share a bedroom is not, in and of itself, negligent treatment or maltreatment. Poverty, experiencing homelessness, or exposure to domestic violence as defined in RCW 7.105.010 that is perpetrated against someone other than the child does not constitute negligent treatment or maltreatment in and of itself.

(20) "Pharmacist" means any registered pharmacist under chapter 18.64 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(21) "Practitioner of the healing arts" or "practitioner" means a person licensed by this state to practice podiatric medicine and surgery, optometry, chiropractic, nursing, dentistry, osteopathic medicine and surgery, or medicine and surgery or to provide other health services. The term "practitioner" includes a duly accredited Christian Science practitioner. A person who is being furnished Christian Science treatment by a duly accredited Christian Science practitioner will not be considered, for that reason alone, a neglected person for the purposes of this chapter.

(22) "Prevention and family services and programs" means specific mental health prevention and treatment services, substance abuse prevention and

treatment services, and in-home parent skill-based programs that qualify for federal funding under the federal family first prevention services act, P.L. 115-123. For purposes of this chapter, prevention and family services and programs are not remedial services or family reunification services as described in RCW 13.34.025(2).

(23) "Professional school personnel" include, but are not limited to, teachers, counselors, administrators, child care facility personnel, and school nurses.

(24) "Psychologist" means any person licensed to practice psychology under chapter 18.83 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(25) "Screened-out report" means a report of alleged child abuse or neglect that the department has determined does not rise to the level of a credible report of abuse or neglect and is not referred for investigation.

(26) "Sexual exploitation" includes: (a) Allowing, permitting, or encouraging a child to engage in prostitution by any person; or (b) allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child by any person.

(27) "Sexually aggressive youth" means a child who is defined in RCW 74.13.075(1)(b) as being a sexually aggressive youth.

(28) "Social service counselor" means anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support, or education of children, or providing social services to adults or families, including mental health, drug and alcohol treatment, and domestic violence programs, whether in an individual capacity, or as an employee or agent of any public or private organization or institution.

(29) "Unfounded" means the determination following an investigation by the department that available information indicates that, more likely than not, child abuse or neglect did not occur, or that there is insufficient evidence for the department to determine whether the alleged child abuse did or did not occur.

NEW SECTION. **Sec. 6.** A new section is added to chapter 43.70 RCW to read as follows:

(1) The department must establish an education program for the prevention of female genital mutilation. The program must be designed to provide information about the health risks and emotional trauma inflicted by the practice of female genital mutilation, as well as the civil and criminal penalties for committing female genital mutilation.

(2) The department must develop policies and procedures to promote partnerships with relevant stakeholders to prevent female genital mutilation and to protect and provide assistance to victims of female genital mutilation, including partnerships with:

(a) Relevant state agencies that provide services to persons at risk of female genital mutilation or persons who have been subjected to female genital mutilation;

(b) The department of children, youth, and families;

(c) The Washington state patrol;

(d) The attorney general; and

(e) Other government entities and nongovernmental organizations.

(3) The department must make recommendations and develop procedures regarding strategies and methodologies for training health care providers as defined in RCW 70.02.010 on recognizing the risk factors associated with female genital mutilation and the signs that a person may be a victim of female genital mutilation.

(4) Subject to the availability of amounts appropriated for this specific purpose, the department may contract with nongovernmental organizations, entities, or persons with experience working with victims of female genital mutilation to provide training and materials and other services as the department deems necessary.

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

(6) For purposes of this section, "female genital mutilation" has the meaning provided in section 3 of this act.

NEW SECTION. **Sec. 7.** A new section is added to chapter 9A.36 RCW to read as follows:

(1) Except as provided in subsection (3) of this section, a person is guilty of female genital mutilation when the person knowingly:

(a) Commits female genital mutilation on a minor; or

(b) Transports a minor, or causes or permits the transport of a minor, for the purpose of the performance of female genital mutilation on the minor.

(2) Female genital mutilation is a gross misdemeanor.

(3) A medical procedure is not a violation of this section if it is performed by a licensed health care provider and is necessary to the health of the minor.

(4) It is not a defense to a violation of this section that a person believes the person's actions were conducted as a matter of culture, custom, religion, or ritual, or that the minor on whom female genital mutilation was performed consented to female genital mutilation, or that the minor's parent or guardian consented to female genital mutilation.

(5) For the purposes of this section:

(a) "Female genital mutilation" has the meaning provided in section 2 of this act; and

(b) "Minor" means any person under the age of 18.

Sec. 8. RCW 9A.04.080 and 2022 c 282 s 4 are each amended to read as follows:

(1) Prosecutions for criminal offenses shall not be commenced after the periods prescribed in this section.

(a) The following offenses may be prosecuted at any time after their commission:

(i) Murder;

(ii) Homicide by abuse;

(iii) Arson if a death results;

(iv) Vehicular homicide;

(v) Vehicular assault if a death results;

(vi) Hit-and-run injury-accident if a death results (RCW 46.52.020(4));

(vii) Rape in the first degree (RCW 9A.44.040) if the victim is under the age of sixteen;

(viii) Rape in the second degree (RCW 9A.44.050) if the victim is under the age of sixteen;

(ix) Rape of a child in the first degree (RCW 9A.44.073);

(x) Rape of a child in the second degree (RCW 9A.44.076);

(xi) Rape of a child in the third degree (RCW 9A.44.079);

(xii) Sexual misconduct with a minor in the first degree (RCW 9A.44.093);

(xiii) Custodial sexual misconduct in the first degree (RCW 9A.44.160);

(xiv) Child molestation in the first degree (RCW 9A.44.083);

(xv) Child molestation in the second degree (RCW 9A.44.086);

(xvi) Child molestation in the third degree (RCW 9A.44.089); and

(xvii) Sexual exploitation of a minor (RCW 9.68A.040).

(b) Except as provided in (a) of this subsection, the following offenses may not be prosecuted more than twenty years after its commission:

(i) Rape in the first degree (RCW 9A.44.040);

(ii) Rape in the second degree (RCW 9A.44.050); or

(iii) Indecent liberties (RCW 9A.44.100).

(c) The following offenses may not be prosecuted more than ten years after its commission:

(i) Any felony committed by a public officer if the commission is in connection with the duties of his or her office or constitutes a breach of his or her public duty or a violation of the oath of office;

(ii) Arson if no death results;

(iii) Rape in the third degree (RCW 9A.44.060);

(iv) Attempted murder; or

(v) Trafficking under RCW 9A.40.100.

(d) A violation of any offense listed in this subsection (1)(d) may be prosecuted up to ten years after its commission or, if committed against a victim under the age of eighteen, up to the victim's thirtieth birthday, whichever is later:

(i) RCW 9.68A.100 (commercial sexual abuse of a minor);

(ii) RCW 9.68A.101 (promoting commercial sexual abuse of a minor);

(iii) RCW 9.68A.102 (promoting travel for commercial sexual abuse of a minor); or

(iv) RCW 9A.64.020 (incest).

(e) A violation of section 7 of this act may be prosecuted up to 10 years after its commission, or if committed against a victim under the age of 18, up to the victim's 28th birthday, whichever is later.

(f) The following offenses may not be prosecuted more than six years after its commission or discovery, whichever occurs later:

(i) Violations of RCW 9A.82.060 or 9A.82.080;

(ii) Any felony violation of chapter 9A.83 RCW;

(iii) Any felony violation of chapter 9.35 RCW;

(iv) Theft in the first or second degree under chapter 9A.56 RCW when accomplished by color or aid of deception;

(v) Theft from a vulnerable adult under RCW 9A.56.400;

(vi) Trafficking in stolen property in the first or second degree under chapter 9A.82 RCW in which the stolen property is a motor vehicle or major component part of a motor vehicle as defined in RCW 46.80.010; or

(vii) Violations of RCW 82.32.290 (2)(a)(iii) or (4).

((~~(f)~~)) (g) The following offenses may not be prosecuted more than five years after its commission: Any class C felony under chapter 74.09, 82.36, or 82.38 RCW.

((~~(g)~~)) (h) Bigamy may not be prosecuted more than three years after the time specified in RCW 9A.64.010.

((~~(h)~~)) (i) A violation of RCW 9A.56.030 may not be prosecuted more than three years after the discovery of the offense when the victim is a tax exempt corporation under 26 U.S.C. Sec. 501(c)(3).

((~~(i)~~)) (j) No other felony may be prosecuted more than three years after its commission; except that in a prosecution under RCW 9A.44.115, if the person who was viewed, photographed, or filmed did not realize at the time that he or she was being viewed, photographed, or filmed, the prosecution must be commenced within two years of the time the person who was viewed or in the photograph or film first learns that he or she was viewed, photographed, or filmed.

((~~(j)~~)) (k) No gross misdemeanor, except as provided under (e) of this subsection, may be prosecuted more than two years after its commission.

((~~(k)~~)) (l) No misdemeanor may be prosecuted more than one year after its commission.

(2) The periods of limitation prescribed in subsection (1) of this section do not run during any time when the person charged is not usually and publicly resident within this state.

(3) In any prosecution for a sex offense as defined in RCW 9.94A.030, the periods of limitation prescribed in subsection (1) of this section run from the date of commission or two years from the date on which the identity of the suspect is conclusively established by deoxyribonucleic acid testing or by photograph as defined in RCW 9.68A.011, whichever is later.

(4) If, before the end of a period of limitation prescribed in subsection (1) of this section, an indictment has been found or a complaint or an information has been filed, and the indictment, complaint, or information is set aside, then the period of limitation is extended by a period equal to the length of time from the finding or filing to the setting aside.

NEW SECTION. **Sec. 9.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate March 1, 2023.
Passed by the House April 6, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 123

[Substitute Senate Bill 5499]

MULTISTATE NURSE LICENSURE COMPACT

AN ACT Relating to the multistate nurse licensure compact; amending RCW 18.79.020, 18.79.202, 18.79.030, 18.130.040, 18.130.040, 18.130.064, and 43.70.110; adding new sections to chapter 18.79 RCW; adding a new section to chapter 70.41 RCW; adding a new section to chapter 71.12 RCW; adding a new section to chapter 70.230 RCW; adding a new section to chapter 18.51 RCW; adding a new section to chapter 18.20 RCW; adding a new section to chapter 70.127 RCW; adding a new section to chapter 70.128 RCW; adding a new section to chapter 18.52C RCW; adding a new chapter to Title 18 RCW; providing an effective date; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** This act shall be known and cited as the interstate nurse licensure compact of 2023.

NEW SECTION. **Sec. 2.** (1) The legislature finds that:

(a) The health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws;

(b) Violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public;

(c) The expanded mobility of nurses and the use of advanced communication technologies as part of our nation's health care delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation;

(d) New practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex;

(e) The current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant for both nurses and states; and

(f) Uniformity of nurse licensure requirements throughout the states promotes public safety and public health benefits.

(2) The general purposes of this compact are to:

(a) Facilitate the states' responsibility to protect the public's health and safety;

(b) Ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation;

(c) Facilitate the exchange of information between party states in the areas of nurse regulation, investigation, and adverse actions;

(d) Promote compliance with the laws governing the practice of nursing in each jurisdiction;

(e) Invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses;

(f) Decrease redundancies in the consideration and issuance of nurse licenses; and

(g) Provide opportunities for interstate practice by nurses who meet uniform licensure requirements.

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

(1) "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against a nurse, including actions against an individual's license or multistate licensure privilege such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other encumbrance on licensure affecting a nurse's authorization to practice, including issuance of a cease and desist action.

(2) "Alternative program" means a nondisciplinary monitoring program approved by a licensing board.

(3) "Coordinated licensure information system" means an integrated process for collecting, storing, and sharing information on nurse licensure and

enforcement activities related to nurse licensure laws that is administered by a nonprofit organization composed of and controlled by licensing boards.

(4) "Current significant investigative information" means:

(a) Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or

(b) Investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond.

(5) "Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of nursing imposed by a licensing board.

(6) "Home state" means the party state which is the nurse's primary state of residence.

(7) "Interstate commission" means the interstate commission of nurse licensure compact administrators.

(8) "Licensing board" means a party state's regulatory body responsible for issuing nurse licenses.

(9) "Multistate license" means a license to practice as a registered or a licensed practical nurse or vocational nurse issued by a home state licensing board that authorizes the licensed nurse to practice in all party states under a multistate licensure privilege.

(10) "Multistate licensure privilege" means a legal authorization associated with a multistate license permitting the practice of nursing as either a registered nurse, or licensed practical or vocational nurse, in a remote state.

(11) "Nurse" means registered nurse, or licensed practical or vocational nurse, as those terms are defined by each party state's practice laws.

(12) "Party state" means any state that has adopted this compact.

(13) "Remote state" means a party state, other than the home state.

(14) "Single-state license" means a nurse license issued by a party state that authorizes practice only within the issuing state and does not include a multistate licensure privilege to practice in any other party state.

(15) "State" means a state, territory, or possession of the United States or the District of Columbia.

(16) "State practice laws" means a party state's laws, rules, and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline. State practice laws do not include requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

NEW SECTION. **Sec. 4.** (1) A multistate license to practice registered or licensed practical or vocational nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a nurse to practice as a registered nurse, or licensed practical or vocational nurse, under a multistate licensure privilege, in each party state.

(2) A state must implement procedures for considering the criminal history records of applicants for initial multistate license or licensure by endorsement. Such procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's

criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state's criminal records.

(3) Each party state shall require the following for an applicant to obtain or retain a multistate license in the home state:

(a) Meets the home state's qualifications for licensure or renewal of licensure, as well as all other applicable state laws;

(b)(i) Has graduated or is eligible to graduate from a licensing board-approved registered nurse, or licensed practical or vocational nurse, prelicensure education program; or

(ii) Has graduated from a foreign registered nurse, or licensed practical or vocational nurse, prelicensure education program that (A) has been approved by the authorized accrediting body in the applicable country and (B) has been verified by an independent credentials review agency to be comparable to a licensing board-approved prelicensure education program;

(c) Has, if a graduate of a foreign prelicensure education program not taught in English or if English is not the individual's native language, successfully passed an English proficiency examination that includes the components of reading, speaking, writing, and listening;

(d) Has successfully passed an NCLEX-RN® or NCLEX-PN® examination or recognized predecessor, as applicable;

(e) Is eligible for or holds an active, unencumbered license;

(f) Has submitted, in connection with an application for initial licensure or licensure by endorsement, fingerprints or other biometric data for the purpose of obtaining criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state's criminal records;

(g) Has not been convicted or found guilty, or has entered into an agreed disposition, of a felony offense under applicable state or federal criminal law;

(h) Has not been convicted or found guilty, or has entered into an agreed disposition, of a misdemeanor offense related to the practice of nursing as determined on a case-by-case basis;

(i) Is not currently enrolled in an alternative program;

(j) Is subject to self-disclosure requirements regarding current participation in an alternative program; and

(k) Has a valid United States social security number.

(4) All party states shall be authorized, in accordance with existing state due process law, to take adverse action against a nurse's multistate licensure privilege such as revocation, suspension, probation, or any other action that affects a nurse's authorization to practice under a multistate licensure privilege, including cease and desist actions. If a party state takes such action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.

(5) A nurse practicing in a party state must comply with the state practice laws of the state in which the client is located at the time service is provided. The practice of nursing is not limited to patient care, but shall include all nursing practice as defined by the state practice laws of the party state in which the client is located. The practice of nursing in a party state under a multistate licensure privilege will subject a nurse to the jurisdiction of the licensing board, the courts,

and the laws of the party state in which the client is located at the time service is provided.

(6) Individuals not residing in a party state shall continue to be able to apply for a party state's single-state license as provided under the laws of each party state. However, the single-state license granted to these individuals will not be recognized as granting the privilege to practice nursing in any other party state. Nothing in this compact shall affect the requirements established by a party state for the issuance of a single-state license.

(7) Any nurse holding a home state multistate license, on the effective date of this compact, may retain and renew the multistate license issued by the nurse's then-current home state, provided that:

(a) A nurse, who changes primary state of residence after the effective date of this compact, must meet all applicable requirements of subsection (3) of this section to obtain a multistate license from a new home state.

(b) A nurse who fails to satisfy the multistate licensure requirements in subsection (3) of this section due to a disqualifying event occurring after the effective date of this compact shall be ineligible to retain or renew a multistate license, and the nurse's multistate license shall be revoked or deactivated in accordance with applicable rules adopted by the interstate commission.

NEW SECTION. **Sec. 5.** (1) Upon application for a multistate license, the licensing board in the issuing party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any encumbrances on any license or multistate licensure privilege held by the applicant, whether any adverse action has been taken against any license or multistate licensure privilege held by the applicant, and whether the applicant is currently participating in an alternative program.

(2) A nurse may hold a multistate license, issued by the home state, in only one party state at a time.

(3) If a nurse changes primary state of residence by moving between two party states, the nurse must apply for licensure in the new home state, and the multistate license issued by the prior home state will be deactivated in accordance with applicable rules adopted by the interstate commission.

(a) The nurse may apply for licensure in advance of a change in primary state of residence.

(b) A multistate license shall not be issued by the new home state until the nurse provides satisfactory evidence of a change in primary state of residence to the new home state and satisfies all applicable requirements to obtain a multistate license from the new home state.

(4) If a nurse changes primary state of residence by moving from a party state to a nonparty state, the multistate license issued by the prior home state will convert to a single-state license, valid only in the former home state.

NEW SECTION. **Sec. 6.** (1) In addition to the other powers conferred by state law, a licensing board shall have the authority to:

(a) Take adverse action against a nurse's multistate licensure privilege to practice within that party state.

(i) Only the home state shall have the power to take adverse action against a nurse's license issued by the home state.

(ii) For purposes of taking adverse action, the home state licensing board shall give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action;

(b) Issue cease and desist orders or impose an encumbrance on a nurse's authority to practice within that party state;

(c) Complete any pending investigations of a nurse who changes primary state of residence during the course of such investigations. The licensing board shall also have the authority to take appropriate action and shall promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any such actions;

(d) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, as well as the production of evidence. Subpoenas issued by a licensing board in a party state for the attendance and testimony of witnesses or the production of evidence from another party state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in which the witnesses or evidence are located;

(e) Obtain and submit, for each nurse licensure applicant, fingerprint or other biometric-based information to the federal bureau of investigation for criminal background checks, receive the results of the federal bureau of investigation record search on criminal background checks, and use the results in making licensure decisions;

(f) If otherwise permitted by state law, recover from the affected nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that nurse;

(g) Take adverse action based on the factual findings of the remote state, provided that the licensing board follows its own procedures for taking such adverse action.

(2) If adverse action is taken by the home state against a nurse's multistate license, the nurse's multistate licensure privilege to practice in all other party states shall be deactivated until all encumbrances have been removed from the multistate license. All home state disciplinary orders that impose adverse action against a nurse's multistate license shall include a statement that the nurse's multistate licensure privilege is deactivated in all party states during the pendency of the order.

(3) Nothing in this compact shall override a party state's decision that participation in an alternative program may be used in lieu of adverse action. The home state licensing board shall deactivate the multistate licensure privilege under the multistate license of any nurse for the duration of the nurse's participation in an alternative program.

NEW SECTION. **Sec. 7.** (1) All party states shall participate in a coordinated licensure information system of all licensed registered nurses, and licensed practical or vocational nurses. This system will include information on

the licensure and disciplinary history of each nurse, as submitted by party states, to assist in the coordination of nurse licensure and enforcement efforts.

(2) The interstate commission, in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection, and exchange of information under this compact.

(3) All licensing boards shall promptly report to the coordinated licensure information system any adverse action, any current significant investigative information, denials of applications, the reasons for such denials, and nurse participation in alternative programs known to the licensing board regardless of whether such participation is deemed nonpublic or confidential under state law.

(4) Current significant investigative information and participation in nonpublic or confidential alternative programs shall be transmitted through the coordinated licensure information system only to party state licensing boards.

(5) Notwithstanding any other provision of law, all party state licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with nonparty states or disclosed to other entities or individuals without the express permission of the contributing state.

(6) Any personally identifiable information obtained from the coordinated licensure information system by a party state licensing board shall not be shared with nonparty states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

(7) Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information shall also be expunged from the coordinated licensure information system.

(8) The compact administrator of each party state shall furnish a uniform data set to the compact administrator of each other party state, which shall include, at a minimum:

(a) Identifying information;

(b) Licensure data;

(c) Information related to alternative program participation; and

(d) Other information that may facilitate the administration of this compact, as determined by interstate commission rules.

(9) The compact administrator of a party state shall provide all investigative documents and information requested by another party state.

NEW SECTION. **Sec. 8.** (1) The party states hereby create and establish a joint public entity known as the interstate commission of nurse licensure compact administrators.

(a) The interstate commission is an instrumentality of the party states.

(b) Venue is proper, and judicial proceedings by or against the interstate commission shall be brought solely and exclusively, in a court of competent jurisdiction where the principal office of the interstate commission is located. The interstate commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

(c) Nothing in this compact shall be construed to be a waiver of sovereign immunity.

(2)(a) Each party state shall have and be limited to one administrator. The head of the state licensing board or designee shall be the administrator of this compact for each party state. Any administrator may be removed or suspended from office as provided by the law of the state from which the administrator is appointed. Any vacancy occurring in the interstate commission shall be filled in accordance with the laws of the party state in which the vacancy exists.

(b) Each administrator shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the interstate commission. An administrator shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for an administrator's participation in meetings by telephone or other means of communication.

(c) The interstate commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws or rules of the interstate commission.

(d) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rule-making provisions in section 9 of this act.

(e) The interstate commission may convene in a closed, nonpublic meeting if the interstate commission must discuss:

(i) Noncompliance of a party state with its obligations under this compact;

(ii) The employment, compensation, discipline, or other personnel matters, practices, or procedures related to specific employees or other matters related to the interstate commission's internal personnel practices and procedures;

(iii) Current, threatened, or reasonably anticipated litigation;

(iv) Negotiation of contracts for the purchase or sale of goods, services, or real estate;

(v) Accusing any person of a crime or formally censuring any person;

(vi) Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(vii) Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(viii) Disclosure of investigatory records compiled for law enforcement purposes;

(ix) Disclosure of information related to any reports prepared by or on behalf of the interstate commission for the purpose of investigation of compliance with this compact; or

(x) Matters specifically exempted from disclosure by federal or state statute.

(f) If a meeting, or portion of a meeting, is closed pursuant to this provision, the interstate commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The interstate commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the interstate commission or order of a court of competent jurisdiction.

(3) The interstate commission shall, by a majority vote of the administrators, prescribe bylaws or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of this compact, including but not limited to:

(a) Establishing the fiscal year of the interstate commission;

(b) Providing reasonable standards and procedures:

(i) For the establishment and meetings of other committees; and

(ii) Governing any general or specific delegation of any authority or function of the interstate commission;

(c) Providing reasonable procedures for calling and conducting meetings of the interstate commission, ensuring reasonable advance notice of all meetings, and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and proprietary information, including trade secrets. The interstate commission may meet in closed session only after a majority of the administrators vote to close a meeting in whole or in part. As soon as practicable, the interstate commission must make public a copy of the vote to close the meeting revealing the vote of each administrator, with no proxy votes allowed;

(d) Establishing the titles, duties, and authority and reasonable procedures for the election of the officers of the interstate commission;

(e) Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the interstate commission. Notwithstanding any civil service or other similar laws of any party state, the bylaws shall exclusively govern the personnel policies and programs of the interstate commission; and

(f) Providing a mechanism for winding up the operations of the interstate commission and the equitable disposition of any surplus funds that may exist after the termination of this compact after the payment or reserving of all of its debts and obligations.

(4) The interstate commission may not, through bylaw or rule, determine or alter:

(a) What is required by section 4(3) of this act by a party state for an applicant to obtain or retain a multistate license in the home state;

(b) Requirements to obtain or renew a single-state license;

(c) The scope of nursing practice in a state;

(d) The methods and grounds for disciplining a nurse in a state;

(e) State labor laws; or

(f) The obligation of any employer to comply with statutory requirements.

(5) The interstate commission shall publish its bylaws and rules, and any amendments thereto, in a convenient form on the web site of the interstate commission.

(6) The interstate commission shall maintain its financial records in accordance with the bylaws.

(7) The interstate commission shall meet and take such actions as are consistent with the provisions of this compact and the bylaws.

(8) The interstate commission shall have the following powers:

(a) To promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules shall have the force and effect of law and shall be binding in all party states;

(b) To bring and prosecute legal proceedings or actions in the name of the interstate commission, provided that the standing of any licensing board to sue or be sued under applicable law shall not be affected;

(c) To purchase and maintain insurance and bonds;

(d) To borrow, accept, or contract for services of personnel including, but not limited to, employees of a party state or nonprofit organizations;

(e) To cooperate with other organizations that administer state compacts related to the regulation of nursing, including but not limited to sharing administrative or staff expenses, office space, or other resources;

(f) To hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of this compact, and to establish the interstate commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

(g) To accept any and all appropriate donations, grants, and gifts of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same; provided that at all times the interstate commission shall avoid any appearance of impropriety or conflict of interest;

(h) To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use, any property, whether real, personal, or mixed; provided that at all times the interstate commission shall avoid any appearance of impropriety;

(i) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, whether real, personal, or mixed;

(j) To establish a budget and make expenditures;

(k) To borrow money;

(l) To appoint committees, including advisory committees comprised of administrators, state nursing regulators, state legislators or their representatives, and consumer representatives, and other such interested persons;

(m) To provide and receive information from, and to cooperate with, law enforcement agencies;

(n) To adopt and use an official seal; and

(o) To perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of nurse licensure and practice.

(9)(a) The interstate commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(b) The interstate commission may also levy on and collect an annual assessment from each party state to cover the cost of its operations, activities, and staff in its annual budget as approved each year. The aggregate annual assessment amount, if any, shall be allocated based upon a formula to be determined by the interstate commission, which shall promulgate a rule that is binding upon all party states.

(c) The interstate commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the interstate

commission pledge the credit of any of the party states, except by, and with the authority of, such party state.

(d) The interstate commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the interstate commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the interstate commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the interstate commission.

(10)(a) The administrators, officers, executive director, employees, and representatives of the interstate commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of interstate commission employment, duties, or responsibilities; provided that nothing in this subsection shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional, willful, or wanton misconduct of that person.

(b) The interstate commission shall defend any administrator, officer, executive director, employee, or representative of the interstate commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further that the actual or alleged act, error, or omission did not result from that person's intentional, willful, or wanton misconduct.

(c) The interstate commission shall indemnify and hold harmless any administrator, officer, executive director, employee, or representative of the interstate commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional, willful, or wanton misconduct of that person.

NEW SECTION. **Sec. 9.** (1) The interstate commission shall exercise its rule-making powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment and shall have the same force and effect as provisions of this compact.

(2) Rules or amendments to the rules shall be adopted at a regular or special meeting of the interstate commission.

(3) Prior to promulgation and adoption of a final rule or rules by the interstate commission, and at least sixty days in advance of the meeting at which

the rule will be considered and voted upon, the interstate commission shall file a notice of proposed rule making:

(a) On the web site of the interstate commission; and

(b) On the web site of each licensing board or the publication in which each state would otherwise publish proposed rules.

(4) The notice of proposed rule making shall include:

(a) The proposed time, date, and location of the meeting in which the rule will be considered and voted upon;

(b) The text of the proposed rule or amendment, and the reason for the proposed rule;

(c) A request for comments on the proposed rule from any interested person; and

(d) The manner in which interested persons may submit notice to the interstate commission of their intention to attend the public hearing and any written comments.

(5) Prior to adoption of a proposed rule, the interstate commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

(6) The interstate commission shall grant an opportunity for a public hearing before it adopts a rule or amendment.

(7) The interstate commission shall publish the place, time, and date of the scheduled public hearing.

(a) Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing. All hearings will be recorded, and a copy will be made available upon request.

(b) Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the interstate commission at hearings required by this section.

(8) If no one appears at the public hearing, the interstate commission may proceed with promulgation of the proposed rule.

(9) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the interstate commission shall consider all written and oral comments received.

(10) The interstate commission shall, by majority vote of all administrators, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rule-making record and the full text of the rule.

(11) Upon determination that an emergency exists, the interstate commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rule-making procedures provided in this compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

(a) Meet an imminent threat to public health, safety, or welfare;

(b) Prevent a loss of interstate commission or party state funds; or

(c) Meet a deadline for the promulgation of an administrative rule that is required by federal law or rule.

(12) The interstate commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the web site of the interstate commission. The revision shall be subject to challenge by any person for a period of thirty days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the interstate commission, prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the interstate commission.

NEW SECTION. **Sec. 10.** (1) Each party state shall enforce this compact and take all actions necessary and appropriate to effectuate this compact's purposes and intent.

(2) The interstate commission shall be entitled to receive service of process in any proceeding that may affect the powers, responsibilities, or actions of the interstate commission, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process in such proceeding to the interstate commission shall render a judgment or order void as to the interstate commission, this compact, or promulgated rules.

(a) If the interstate commission determines that a party state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the interstate commission shall:

(i) Provide written notice to the defaulting state and other party states of the nature of the default, the proposed means of curing the default, or any other action to be taken by the interstate commission; and

(ii) Provide remedial training and specific technical assistance regarding the default.

(b) If a state in default fails to cure the default, the defaulting state's membership in this compact may be terminated upon an affirmative vote of a majority of the administrators, and all rights, privileges, and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(c) Termination of membership in this compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the interstate commission to the governor of the defaulting state and to the executive officer of the defaulting state's licensing board and each of the party states.

(d) A state whose membership in this compact has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(e) The interstate commission shall not bear any costs related to a state that is found to be in default or whose membership in this compact has been terminated unless agreed upon in writing between the interstate commission and the defaulting state.

(f) The defaulting state may appeal the action of the interstate commission by petitioning the United States district court for the District of Columbia or the

federal district in which the interstate commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

(3)(a) Upon request by a party state, the interstate commission shall attempt to resolve disputes related to the compact that arise among party states and between party and nonparty states.

(b) The interstate commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes, as appropriate.

(c) In the event the interstate commission cannot resolve disputes among party states arising under this compact:

(i) The party states may submit the issues in dispute to an arbitration panel, which will be comprised of individuals appointed by the compact administrator in each of the affected party states and an individual mutually agreed upon by the compact administrators of all the party states involved in the dispute.

(ii) The decision of a majority of the arbitrators shall be final and binding.

(4)(a) The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

(b) By majority vote, the interstate commission may initiate legal action in the United States district court for the District of Columbia or the federal district in which the interstate commission has its principal offices against a party state that is in default to enforce compliance with the provisions of this compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

(c) The remedies herein shall not be the exclusive remedies of the interstate commission. The interstate commission may pursue any other remedies available under federal or state law.

NEW SECTION. **Sec. 11.** (1) This compact shall become effective and binding on the earlier of the date of legislative enactment of this compact into law by no less than twenty-six states or December 31, 2018. All party states to this compact, that also were parties to the prior nurse licensure compact, superseded by this compact, shall be deemed to have withdrawn from the prior compact within six months after the effective date of this compact.

(2) Each party state to this compact shall continue to recognize a nurse's multistate licensure privilege to practice in that party state issued under the prior compact until such party state has withdrawn from the prior compact.

(3) Any party state may withdraw from this compact by enacting a statute repealing the same. A party state's withdrawal shall not take effect until six months after enactment of the repealing statute.

(4) A party state's withdrawal or termination shall not affect the continuing requirement of the withdrawing or terminated state's licensing board to report adverse actions and significant investigations occurring prior to the effective date of such withdrawal or termination.

(5) Nothing contained in this compact shall be construed to invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a nonparty state that is made in accordance with the other provisions of this compact.

(6) This compact may be amended by the party states. No amendment to this compact shall become effective and binding upon the party states unless and until it is enacted into the laws of all party states.

(7) Representatives of nonparty states to this compact shall be invited to participate in the activities of the interstate commission, on a nonvoting basis, prior to the adoption of this compact by all states.

NEW SECTION. **Sec. 12.** This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the Constitution of any party state or of the United States, or if the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held to be contrary to the Constitution of any party state, this compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

NEW SECTION. **Sec. 13.** A new section is added to chapter 18.79 RCW to read as follows:

The board may adopt rules to implement this act.

NEW SECTION. **Sec. 14.** A new section is added to chapter 18.79 RCW to read as follows:

(1) In screening applicants to obtain or retain a multistate license under section 4 of this act, the board shall:

(a) Obtain fingerprints from each applicant for a multistate license;

(b) Submit the fingerprints through the state patrol to the federal bureau of investigation for a national criminal history background check;

(c) Receive the results of the federal bureau of investigation national criminal history background check; and

(d) Use the results in making multistate licensure decisions.

(2) The results of the federal bureau of investigation national criminal history background check are confidential. The board shall not release the results to the public, the interstate commission of nurse licensure compact administrators, or the licensing board of any other state.

(3) Nothing in this act shall be construed to authorize the board to participate in the federal bureau of investigation service, known as rap back, which identifies changes in criminal history record information against retained fingerprints.

(4) For purposes of this section, "multistate license" means the same as defined in section 3 of this act.

NEW SECTION. **Sec. 15.** A new section is added to chapter 18.79 RCW to read as follows:

A person seeking to practice as a registered nurse or licensed practical nurse in this state may choose to apply for a license issued under this chapter or a multistate license issued under chapter 18.--- RCW (the new chapter created in section 32 of this act).

NEW SECTION. **Sec. 16.** A new section is added to chapter 18.79 RCW to read as follows:

The board shall publish on its website:

(1) All rules and requirements associated with the passage of the interstate nurse licensure compact, chapter 18.--- RCW (the new chapter created in section 32 of this act);

(2) An annually updated summary of the key differences in each state's nursing practice act; and

(3) All meeting details, including meeting dates and times, locations, and methods of participation and sharing of comments for the compact administrator meetings.

Sec. 17. RCW 18.79.020 and 1994 sp.s. c 9 s 402 are each amended to read as follows:

Unless a different meaning is plainly required by the context, the definitions set forth in this section apply throughout this chapter.

(1) "((~~Commission~~)) Board" means the Washington state ((~~nursing care quality assurance commission~~)) board of nursing.

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

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

(4) "Diagnosis," in the context of nursing practice, means the identification of, and discrimination between, the person's physical and psychosocial signs and symptoms that are essential to effective execution and management of the nursing care regimen.

(5) "Diploma" means written official verification of completion of an approved nursing education program.

(6) "Nurse" or "nursing," unless otherwise specified as a practical nurse or practical nursing, means a registered nurse or registered nursing.

Sec. 18. RCW 18.79.202 and 2005 c 268 s 4 are each amended to read as follows:

(1) In addition to the licensing fee for registered nurses and licensed practical nurses licensed under this chapter and for nurses who hold a valid multistate license issued by the state of Washington under chapter 18.--- RCW (the new chapter created in section 32 of this act), the department shall impose an additional surcharge of ((~~five~~)) eight dollars per year on all initial licenses and renewal licenses for registered nurses and licensed practical nurses issued under this chapter. Advanced registered nurse practitioners are only required to pay the surcharge on their registered nurse licenses.

(2) The department, in consultation with the ((~~commission~~)) board and the workforce training and education coordinating board, shall use the proceeds from the surcharge imposed under subsection (1) of this section to provide grants to a central nursing resource center. The grants may be awarded only to a not-for-profit central nursing resource center that is comprised of and led by nurses. The central nursing resource center will demonstrate coordination with relevant nursing constituents including professional nursing organizations, groups representing nursing educators, staff nurses, nurse managers or executives, and labor organizations representing nurses. The central nursing resource center shall have as its mission to contribute to the health and wellness of Washington state residents by ensuring that there is an adequate nursing workforce to meet the current and future health care needs of the citizens of the state of

Washington. The grants may be used to fund the following activities of the central nursing resource center:

(a) Maintain information on the current and projected supply and demand of nurses through the collection and analysis of data regarding the nursing workforce, including but not limited to education level, race and ethnicity, employment settings, nursing positions, reasons for leaving the nursing profession, and those leaving Washington state to practice elsewhere. This data collection and analysis must complement other state activities to produce data on the nursing workforce and the central nursing resource center shall work collaboratively with other entities in the data collection to ensure coordination and avoid duplication of efforts;

(b) Monitor and validate trends in the applicant pool for programs in nursing. The central nursing resource center must work with nursing leaders to identify approaches to address issues arising related to the trends identified, and collect information on other states' approaches to addressing these issues;

(c) Facilitate partnerships between the nursing community and other health care providers, licensing authority, business and industry, consumers, legislators, and educators to achieve policy consensus, promote diversity within the profession, and enhance nursing career mobility and nursing leadership development;

(d) Evaluate the effectiveness of nursing education and articulation among programs to increase access to nursing education and enhance career mobility, especially for populations that are underrepresented in the nursing profession;

(e) Provide consultation, technical assistance, data, and information related to Washington state and national nursing resources;

(f) Promote strategies to enhance patient safety and quality patient care including encouraging a safe and healthy workplace environment for nurses; and

(g) Educate the public including students in K-12 about opportunities and careers in nursing.

(3) The nursing resource center account is created in the custody of the state treasurer. All receipts from the surcharge in subsection (1) of this section must be deposited in the account. Expenditures from the account may be used only for grants to an organization to conduct the specific activities listed in subsection (2) of this section and to compensate the department for the reasonable costs associated with the collection and distribution of the surcharge and the administration of the grant provided for in subsection (2) of this section. No money from this account may be used by the recipient towards administrative costs of the central nursing resource center not associated with the specific activities listed in subsection (2) of this section. No money from this account may be used by the recipient toward lobbying. Only the secretary or the secretary's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. Grants will be awarded on an annual basis and funds will be distributed quarterly. The first distribution after awarding the first grant shall be made no later than six months after July 24, 2005. The central nursing resource center shall report to the department on meeting the grant objectives annually.

(4) The central nursing resource center shall submit a report of all progress, collaboration with other organizations and government entities, and activities

conducted by the center to the relevant committees of the legislature by November 30, 2011. The department shall conduct a review of the program to collect funds to support the activities of a nursing resource center and make recommendations on the effectiveness of the program and whether it should continue. The review shall be paid for with funds from the nursing resource center account. The review must be completed by June 30, 2012.

(5) The department may adopt rules as necessary to implement chapter 268, Laws of 2005.

Sec. 19. RCW 18.79.030 and 1997 c 177 s 1 are each amended to read as follows:

(1) It is unlawful for a person to practice or to offer to practice as a registered nurse in this state unless that person has been licensed under this chapter or holds a valid multistate license under chapter 18.--- RCW (the new chapter created in section 32 of this act). A person who holds a license to practice as a registered nurse in this state may use the titles "registered nurse" and "nurse" and the abbreviation "R.N." No other person may assume those titles or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using them is a registered nurse.

(2) It is unlawful for a person to practice or to offer to practice as an advanced registered nurse practitioner or as a nurse practitioner in this state unless that person has been licensed under this chapter. A person who holds a license to practice as an advanced registered nurse practitioner in this state may use the titles "advanced registered nurse practitioner," "nurse practitioner," and "nurse" and the abbreviations "A.R.N.P." and "N.P." No other person may assume those titles or use those abbreviations or any other words, letters, signs, or figures to indicate that the person using them is an advanced registered nurse practitioner or nurse practitioner.

(3) It is unlawful for a person to practice or to offer to practice as a licensed practical nurse in this state unless that person has been licensed under this chapter or holds a valid multistate license under chapter 18.--- RCW (the new chapter created in section 32 of this act). A person who holds a license to practice as a licensed practical nurse in this state may use the titles "licensed practical nurse" and "nurse" and the abbreviation "L.P.N." No other person may assume those titles or use that abbreviation or any other words, letters, signs, or figures to indicate that the person using them is a licensed practical nurse.

(4) Nothing in this section shall prohibit a person listed as a Christian Science nurse in the Christian Science Journal published by the Christian Science Publishing Society, Boston, Massachusetts, from using the title "Christian Science nurse," so long as such person does not hold himself or herself out as a registered nurse, advanced registered nurse practitioner, nurse practitioner, or licensed practical nurse, unless otherwise authorized by law to do so.

Sec. 20. RCW 18.130.040 and 2021 c 179 s 7 are each amended to read as follows:

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

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

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

(ii) Midwives licensed under chapter 18.50 RCW;

(iii) Ocularists licensed under chapter 18.55 RCW;

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

(v) Dental hygienists licensed under chapter 18.29 RCW;

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

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

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

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

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

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

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

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

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

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

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

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

(xviii) Surgical technologists registered under chapter 18.215 RCW;

(xix) Recreational therapists under chapter 18.230 RCW;

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

(xxi) Athletic trainers licensed under chapter 18.250 RCW;

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

(xxiii) Genetic counselors licensed under chapter 18.290 RCW;

(xxiv) Reflexologists certified under chapter 18.108 RCW;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(xii) The ((~~nursing care quality assurance commission~~)) board of nursing as established in chapter 18.79 RCW governing licenses and registrations issued under that chapter and under chapter 18.--- RCW (the new chapter created in section 32 of this act);

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

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

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

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

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

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

Sec. 21. RCW 18.130.040 and 2022 c 217 s 5 are each amended to read as follows:

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

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

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

(ii) Midwives licensed under chapter 18.50 RCW;

(iii) Ocularists licensed under chapter 18.55 RCW;

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

(v) Dental hygienists licensed under chapter 18.29 RCW;

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

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

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

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

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

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

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

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

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

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

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

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

(xviii) Surgical technologists registered under chapter 18.215 RCW;

(xix) Recreational therapists under chapter 18.230 RCW;

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

(xxi) Athletic trainers licensed under chapter 18.250 RCW;

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

(xxiii) Genetic counselors licensed under chapter 18.290 RCW;

(xxiv) Reflexologists certified under chapter 18.108 RCW;

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

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

(xxvii) Birth doulas certified under chapter 18.47 RCW.

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

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

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

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

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

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

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

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

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

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

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

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

(xii) The ((~~nursing care quality assurance commission~~)) board of nursing as established in chapter 18.79 RCW governing licenses and registrations issued under that chapter and under chapter 18.--- RCW (the new chapter created in section 32 of this act);

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

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

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

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

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

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

Sec. 22. RCW 18.130.064 and 2008 c 134 s 7 are each amended to read as follows:

(1)(a) The secretary is authorized to receive criminal history record information that includes nonconviction data for any purpose associated with investigation or licensing and investigate the complete criminal history and pending charges of all applicants and license holders.

(b) Dissemination or use of nonconviction data for purposes other than that authorized in this section is prohibited. Disciplining authorities shall restrict the use of background check results in determining the individual's suitability for a license and in conducting disciplinary functions.

(2)(a) The secretary shall establish requirements for each applicant for an initial license to obtain a state background check through the state patrol prior to the issuance of any license. The background check may be fingerprint-based at the discretion of the department.

(b) The secretary shall specify those situations where a background check under (a) of this subsection is inadequate and an applicant for an initial license must obtain an electronic fingerprint-based national background check through the state patrol and federal bureau of investigation. Situations where a

background check is inadequate may include instances where an applicant has recently lived out of state or where the applicant has a criminal record in Washington. The secretary shall issue a temporary practice permit to an applicant who must have a national background check conducted if the background check conducted under (a) of this subsection does not reveal a criminal record in Washington, and if the applicant meets the provisions of RCW 18.130.075.

(3) In addition to the background check required in subsection (2) of this section, an investigation may include an examination of state and national criminal identification data. The disciplining authority shall use the information for determining eligibility for licensure or renewal. The disciplining authority may also use the information when determining whether to proceed with an investigation of a report under RCW 18.130.080. For a national criminal history records check, the department shall require fingerprints be submitted to and searched through the Washington state patrol identification and criminal history section. The Washington state patrol shall forward the fingerprints to the federal bureau of investigation.

(4) The secretary shall adopt rules to require license holders to report to the disciplining authority any arrests, convictions, or other determinations or findings by a law enforcement agency occurring after June 12, 2008, for a criminal offense. The report must be made within fourteen days of the conviction.

(5) The secretary shall conduct an annual review of a representative sample of all license holders who have previously obtained a background check through the department. The selection of the license holders to be reviewed must be representative of all categories of license holders and geographic locations.

(6)(a) When deciding whether or not to issue an initial license, the disciplining authority shall consider the results of any background check conducted under subsection (2) of this section that reveals a conviction for any criminal offense that constitutes unprofessional conduct under this chapter or the chapters specified in RCW 18.130.040(2) or a series of arrests that when considered together demonstrate a pattern of behavior that, without investigation, may pose a risk to the safety of the license holder's patients.

(b) If the background check conducted under subsection (2) of this section reveals any information related to unprofessional conduct that has not been previously disclosed to the disciplining authority, the disciplining authority shall take appropriate disciplinary action against the license holder.

(7) The department shall:

(a) Require the applicant or license holder to submit full sets of fingerprints if necessary to complete the background check;

(b) Require the applicant to submit any information required by the state patrol; and

(c) Notify the applicant if their background check reveals a criminal record. Only when the background check reveals a criminal record will an applicant receive a notice. Upon receiving such a notice, the applicant may request and the department shall provide a copy of the record to the extent permitted under RCW 10.97.050, including making accessible to the applicant for their personal use and information any records of arrest, charges, or allegations of criminal conduct or other nonconviction data pursuant to RCW 10.97.050(4).

(8) Criminal justice agencies shall provide the secretary with both conviction and nonconviction information that the secretary requests for investigations under this chapter.

(9) There is established a unit within the department for the purpose of detection, investigation, and prosecution of any act prohibited or declared unlawful under this chapter. The secretary will employ supervisory, legal, and investigative personnel for the unit who must be qualified by training and experience.

(10) For purposes of issuing multistate licenses under chapter 18.--- RCW (the new chapter created in section 32 of this act), the board of nursing is authorized to receive criminal history record information that includes nonconviction data for any purpose associated with licensing and investigate the complete criminal history and pending charges of all applicants and license holders.

Sec. 23. RCW 43.70.110 and 2020 c 80 s 28 are each amended to read as follows:

(1) The secretary shall charge fees to the licensee for obtaining a license. Physicians regulated pursuant to chapter 18.71 RCW who reside and practice in Washington and obtain or renew a retired active license are exempt from such fees. Municipal corporations providing emergency medical care and transportation services pursuant to chapter 18.73 RCW shall be exempt from such fees, provided that such other emergency services shall only be charged for their pro rata share of the cost of licensure and inspection, if appropriate. The secretary may charge different fees for registered nurses licensed under chapter 18.79 RCW, licensed practical nurses licensed under chapter 18.79 RCW, and nurses who hold a valid multistate license issued by the state of Washington under chapter 18.--- RCW (the new chapter created in section 32 of this act). The secretary may waive the fees when, in the discretion of the secretary, the fees would not be in the best interest of public health and safety, or when the fees would be to the financial disadvantage of the state.

(2) Except as provided in subsection (3) of this section, fees charged shall be based on, but shall not exceed, the cost to the department for the licensure of the activity or class of activities and may include costs of necessary inspection.

(3) License fees shall include amounts in addition to the cost of licensure activities in the following circumstances:

(a) For registered nurses and licensed practical nurses licensed under chapter 18.79 RCW, and for nurses who hold a valid multistate license issued by the state of Washington under chapter 18.--- RCW (the new chapter created in section 32 of this act), support of a central nursing resource center as provided in RCW 18.79.202;

(b) For all health care providers licensed under RCW 18.130.040, the cost of regulatory activities for retired volunteer medical worker licensees as provided in RCW 18.130.360; and

(c) For physicians licensed under chapter 18.71 RCW, physician assistants licensed under chapter 18.71A RCW, osteopathic physicians licensed under chapter 18.57 RCW, naturopaths licensed under chapter 18.36A RCW, podiatrists licensed under chapter 18.22 RCW, chiropractors licensed under chapter 18.25 RCW, psychologists licensed under chapter 18.83 RCW, registered nurses and licensed practical nurses licensed under chapter 18.79

RCW, nurses who hold a valid multistate license issued by the state of Washington under chapter 18.--- RCW (the new chapter created in section 32 of this act), optometrists licensed under chapter 18.53 RCW, mental health counselors licensed under chapter 18.225 RCW, massage therapists licensed under chapter 18.108 RCW, advanced social workers licensed under chapter 18.225 RCW, independent clinical social workers and independent clinical social worker associates licensed under chapter 18.225 RCW, midwives licensed under chapter 18.50 RCW, marriage and family therapists and marriage and family therapist associates licensed under chapter 18.225 RCW, occupational therapists and occupational therapy assistants licensed under chapter 18.59 RCW, dietitians and nutritionists certified under chapter 18.138 RCW, speech-language pathologists licensed under chapter 18.35 RCW, acupuncturists or acupuncture and Eastern medicine practitioners licensed under chapter 18.06 RCW, and veterinarians and veterinary technicians licensed under chapter 18.92 RCW, the license fees shall include up to an additional twenty-five dollars to be transferred by the department to the University of Washington for the purposes of RCW 43.70.112.

(4) Department of health advisory committees may review fees established by the secretary for licenses and comment upon the appropriateness of the level of such fees.

NEW SECTION. **Sec. 24.** A new section is added to chapter 70.41 RCW to read as follows:

(1) Beginning September 1, 2023, and annually thereafter, individuals that hold a multistate nurse license issued by a state other than Washington and are employed by hospitals licensed under this chapter shall complete any demographic data surveys required by the board of nursing in rule as a condition of employment.

(2) Individuals that hold a multistate nurse license issued by a state other than Washington and are employed by hospitals licensed under this chapter shall complete the suicide assessment, treatment, and management training required by RCW 43.70.442(5)(a) as a condition of employment.

(3) Hospitals shall report to the board of nursing, within 30 days of employment, all nurses holding a multistate license issued by a state other than Washington and an attestation that the employees holding a multistate license issued by a state other than Washington have completed the tasks required under this section as a condition of employment.

(4) This section is subject to enforcement by the department.

NEW SECTION. **Sec. 25.** A new section is added to chapter 71.12 RCW to read as follows:

(1) Beginning September 1, 2023, and annually thereafter, individuals that hold a multistate nurse license issued by a state other than Washington and are employed by establishments licensed under this chapter shall complete any demographic data surveys required by the board of nursing in rule as a condition of employment.

(2) Individuals that hold a multistate nurse license issued by a state other than Washington and are employed by establishments licensed under this chapter shall complete the suicide assessment, treatment, and management training required by RCW 43.70.442(5)(a) as a condition of employment.

(3) Establishments licensed under this chapter shall report to the board of nursing, within 30 days of employment, all nurses holding a multistate license issued by a state other than Washington and an attestation that the employees holding a multistate license issued by a state other than Washington have completed the tasks required under this section as a condition of employment.

(4) This section is subject to enforcement by the department.

NEW SECTION. **Sec. 26.** A new section is added to chapter 70.230 RCW to read as follows:

(1) Beginning September 1, 2023, and annually thereafter, individuals that hold a multistate nurse license issued by a state other than Washington and are employed by ambulatory surgical facilities licensed under this chapter shall complete any demographic data surveys required by the board of nursing in rule as a condition of employment.

(2) Individuals that hold a multistate nurse license issued by a state other than Washington and are employed by ambulatory surgical facilities licensed under this chapter shall complete the suicide assessment, treatment, and management training required by RCW 43.70.442(5)(a) as a condition of employment.

(3) Ambulatory surgical facilities shall report to the board of nursing, within 30 days of employment, all nurses holding a multistate license issued by a state other than Washington and an attestation that the employees holding a multistate license issued by a state other than Washington have completed the tasks required under this section as a condition of employment.

(4) This section is subject to enforcement by the department.

NEW SECTION. **Sec. 27.** A new section is added to chapter 18.51 RCW to read as follows:

(1) Beginning September 1, 2023, and annually thereafter, individuals that hold a multistate nurse license issued by a state other than Washington and are employed by nursing homes licensed under this chapter shall complete any demographic data surveys required by the board of nursing in rule as a condition of employment.

(2) Individuals that hold a multistate nurse license issued by a state other than Washington and are employed by nursing homes licensed under this chapter shall complete the suicide assessment, treatment, and management training required by RCW 43.70.442(5)(a) as a condition of employment.

(3) Nursing homes shall report to the board of nursing, within 30 days of employment, all nurses holding a multistate license issued by a state other than Washington and an attestation that the employees holding a multistate license issued by a state other than Washington have completed the tasks required under this section as a condition of employment.

(4) This section is subject to enforcement by the department.

NEW SECTION. **Sec. 28.** A new section is added to chapter 18.20 RCW to read as follows:

(1) Beginning September 1, 2023, and annually thereafter, individuals that hold a multistate nurse license issued by a state other than Washington and are employed by assisted living facilities licensed under this chapter shall complete any demographic data surveys required by the board of nursing in rule as a condition of employment.

(2) Individuals that hold a multistate nurse license issued by a state other than Washington and are employed by assisted living facilities licensed under this chapter shall complete the suicide assessment, treatment, and management training required by RCW 43.70.442(5)(a) as a condition of employment.

(3) Assisted living facilities shall report to the board of nursing, within 30 days of employment, all nurses holding a multistate license issued by a state other than Washington and an attestation that the employees holding a multistate license issued by a state other than Washington have completed the tasks required under this section as a condition of employment.

(4) This section is subject to enforcement by the department.

NEW SECTION. **Sec. 29.** A new section is added to chapter 70.127 RCW to read as follows:

(1) Beginning September 1, 2023, and annually thereafter, individuals that hold a multistate nurse license issued by a state other than Washington and are employed by hospice care centers licensed under this chapter shall complete any demographic data surveys required by the board of nursing in rule as a condition of employment.

(2) Individuals that hold a multistate nurse license issued by a state other than Washington and are employed by hospice care centers licensed under this chapter shall complete the suicide assessment, treatment, and management training required by RCW 43.70.442(5)(a) as a condition of employment.

(3) Hospice care centers shall report to the board of nursing, within 30 days of employment, all nurses holding a multistate license issued by a state other than Washington and an attestation that the employees holding a multistate license issued by a state other than Washington have completed the tasks required under this section as a condition of employment.

(4) This section is subject to enforcement by the department.

NEW SECTION. **Sec. 30.** A new section is added to chapter 70.128 RCW to read as follows:

(1) Beginning September 1, 2023, and annually thereafter, individuals that hold a multistate nurse license issued by a state other than Washington and are employed by adult family homes licensed under this chapter shall complete any demographic data surveys required by the board of nursing in rule as a condition of employment.

(2) Individuals that hold a multistate nurse license issued by a state other than Washington and are employed by adult family homes licensed under this chapter shall complete the suicide assessment, treatment, and management training required by RCW 43.70.442(5)(a) as a condition of employment.

(3) Adult family homes shall report to the board of nursing, within 30 days of employment, all nurses holding a multistate license issued by a state other than Washington and an attestation that the employees holding a multistate license issued by a state other than Washington have completed the tasks required under this section as a condition of employment.

(4) This section is subject to enforcement by the department.

NEW SECTION. **Sec. 31.** A new section is added to chapter 18.52C RCW to read as follows:

(1) Beginning September 1, 2023, and annually thereafter, individuals that hold a multistate nurse license issued by a state other than Washington and are

employed by a nursing pool shall complete any demographic data surveys required by the board of nursing in rule as a condition of employment.

(2) Individuals that hold a multistate nurse license issued by a state other than Washington and are employed by a nursing pool shall complete the suicide assessment, treatment, and management training required by RCW 43.70.442(5)(a) as a condition of employment.

(3) Nursing pools shall report to the board of nursing, within 30 days of employment, all nurses holding a multistate license issued by a state other than Washington and an attestation that the employees holding a multistate license issued by a state other than Washington have completed the tasks required under this section as a condition of employment.

(4) This section is subject to enforcement by the secretary.

NEW SECTION. **Sec. 32.** Sections 1 through 12 of this act constitute a new chapter in Title 18 RCW.

NEW SECTION. **Sec. 33.** Section 20 of this act expires October 1, 2023.

NEW SECTION. **Sec. 34.** Section 21 of this act takes effect October 1, 2023.

Passed by the Senate March 6, 2023.
Passed by the House April 6, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 124

[Second Substitute Senate Bill 5518]
CYBERSECURITY—VARIOUS PROVISIONS

AN ACT Relating to cybersecurity; amending RCW 43.21F.045; reenacting and amending RCW 43.105.020 and 38.52.040; adding a new section to chapter 43.105 RCW; and adding a new section to chapter 42.56 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 43.105.020 and 2021 c 176 s 5223 and 2021 c 40 s 2 are each reenacted and amended to read as follows:

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

(1) "Agency" means the consolidated technology services agency.

(2) "Board" means the technology services board.

(3) "Cloud computing" has the same meaning as provided by the special publication 800-145 issued by the national institute of standards and technology of the United States department of commerce as of September 2011 or its successor publications.

(4) "Customer agencies" means all entities that purchase or use information technology resources, telecommunications, or services from the consolidated technology services agency.

(5) "Director" means the state chief information officer, who is the director of the consolidated technology services agency.

(6) "Enterprise architecture" means an ongoing activity for translating business vision and strategy into effective enterprise change. It is a continuous

activity. Enterprise architecture creates, communicates, and improves the key principles and models that describe the enterprise's future state and enable its evolution.

(7) "Equipment" means the machines, devices, and transmission facilities used in information processing, including but not limited to computers, terminals, telephones, wireless communications system facilities, cables, and any physical facility necessary for the operation of such equipment.

(8) "Information" includes, but is not limited to, data, text, voice, and video.

(9) "Information security" means the protection of communication and information resources from unauthorized access, use, disclosure, disruption, modification, or destruction in order to:

(a) Prevent improper information modification or destruction;

(b) Preserve authorized restrictions on information access and disclosure;

(c) Ensure timely and reliable access to and use of information; and

(d) Maintain the confidentiality, integrity, and availability of information.

(10) "Information technology" includes, but is not limited to, all electronic technology systems and services, automated information handling, system design and analysis, conversion of data, computer programming, information storage and retrieval, telecommunications, requisite system controls, simulation, electronic commerce, radio technologies, and all related interactions between people and machines.

(11) "Information technology portfolio" or "portfolio" means a strategic management process documenting relationships between agency missions and information technology and telecommunications investments.

(12) "K-20 network" means the network established in RCW 43.41.391.

(13) "Local governments" includes all municipal and quasi-municipal corporations and political subdivisions, and all agencies of such corporations and subdivisions authorized to contract separately.

(14) "Office" means the office of the state chief information officer within the consolidated technology services agency.

(15) "Oversight" means a process of comprehensive risk analysis and management designed to ensure optimum use of information technology resources and telecommunications.

(16) "Proprietary software" means that software offered for sale or license.

(17) "Public agency" means any agency of this state or another state; any political subdivision or unit of local government of this state or another state including, but not limited to, municipal corporations, quasi-municipal corporations, special purpose districts, and local service districts; any public benefit nonprofit corporation; any agency of the United States; and any Indian tribe recognized as such by the federal government.

(18) "Public benefit nonprofit corporation" means a public benefit nonprofit corporation as defined in RCW 24.03A.245 that is receiving local, state, or federal funds either directly or through a public agency other than an Indian tribe or political subdivision of another state.

(19) "Public record" has the definitions in RCW 42.56.010 and chapter 40.14 RCW and includes legislative records and court records that are available for public inspection.

(20) "Public safety" refers to any entity or services that ensure the welfare and protection of the public.

(21) "Ransomware" means a type of malware that attempts to deny a user or organization access to data or systems, usually through encryption, until a sum of money or other currency is paid or the user or organization is forced to take a specific action.

(22) "Security incident" means an accidental or deliberative event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of communication and information resources.

(((~~(22)~~))) (23) "State agency" means every state office, department, division, bureau, board, commission, or other state agency, including offices headed by a statewide elected official.

(((~~(23)~~))) (24) "Telecommunications" includes, but is not limited to, wireless or wired systems for transport of voice, video, and data communications, network systems, requisite facilities, equipment, system controls, simulation, electronic commerce, and all related interactions between people and machines.

(((~~(24)~~))) (25) "Utility-based infrastructure services" includes personal computer and portable device support, servers and server administration, security administration, network administration, telephony, email, and other information technology services commonly used by state agencies.

Sec. 2. RCW 38.52.040 and 2021 c 233 s 1 and 2021 c 122 s 4 are each reenacted and amended to read as follows:

(1) There is hereby created the emergency management council (hereinafter called the council), to consist of not more than 21 members who shall be appointed by the adjutant general. The membership of the council shall include, but not be limited to, representatives of city and county governments, two representatives of federally recognized tribes, sheriffs and police chiefs, county coroners and medical examiners, the Washington state patrol, the military department, the department of ecology, state and local fire chiefs, seismic safety experts, state and local emergency management directors, search and rescue volunteers, medical professions who have expertise in emergency medical care, building officials, private industry, and the office of the superintendent of public instruction. The representatives of private industry shall include persons knowledgeable in emergency and hazardous materials management. The councilmembers shall elect a chair from within the council membership. The members of the council shall serve without compensation, but may be reimbursed for their travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(2) The emergency management council shall advise the governor and the director on all matters pertaining to state and local emergency management. The council may appoint such ad hoc committees, subcommittees, and working groups as are required to develop specific recommendations for the improvement of emergency management practices, standards, policies, or procedures. The council shall ensure that the governor receives an annual assessment of statewide emergency preparedness including, but not limited to, specific progress on hazard mitigation and reduction efforts, implementation of seismic safety improvements, reduction of flood hazards, mitigation of cybersecurity risks to critical infrastructure, and coordination of hazardous materials planning and response activities. The council shall review

administrative rules governing state and local emergency management practices and recommend necessary revisions to the director.

(3) The council or a council subcommittee shall serve and periodically convene in special session as the state emergency response commission required by the emergency planning and community right-to-know act (42 U.S.C. Sec. 11001 et seq.). The state emergency response commission shall conduct those activities specified in federal statutes and regulations and state administrative rules governing the coordination of hazardous materials policy including, but not limited to, review of local emergency planning committee emergency response plans for compliance with the planning requirements in the emergency planning and community right-to-know act (42 U.S.C. Sec. 11001 et seq.). Committees shall annually review their plans to address changed conditions, and submit their plans to the state emergency response commission for review when updated, but not less than at least once every five years. The department may employ staff to assist local emergency planning committees in the development and annual review of these emergency response plans, with an initial focus on the highest risk communities through which trains that transport oil in bulk travel. By March 1, 2018, the department shall report to the governor and legislature on progress towards compliance with planning requirements. The report must also provide budget and policy recommendations for continued support of local emergency planning.

(4)(a) The cybersecurity advisory committee is created and is a subcommittee of the emergency management council. The purpose of the cybersecurity advisory committee is to provide advice and recommendations that strengthen cybersecurity in both industry and public sectors across all critical infrastructure sectors.

(b) The cybersecurity advisory committee shall bring together organizations with expertise and responsibility for cybersecurity and incident response among local government, tribes, state agencies, institutions of higher education, the technology sector, and first responders with the goal of providing recommendations on building and sustaining the state's capability to identify and mitigate cybersecurity risk and to respond to and recover from cybersecurity-related incidents, including but not limited to ransomware incidents. With respect to critical infrastructure, the cybersecurity advisory committee shall work with relevant federal agencies, state agencies, institutions of higher education as defined in chapter 28B.92 RCW, industry experts, and technical specialists to:

(i) Identify which local, tribal, and industry infrastructure sectors are at the greatest risk of cyberattacks and need the most enhanced cybersecurity measures;

(ii) Use federal guidance to analyze categories of critical infrastructure in the state that could reasonably result in catastrophic consequences if unauthorized cyber access to the infrastructure occurred;

(iii) Recommend cyber incident response exercises that relate to risk and risk mitigation in the water, transportation, communications, health care, elections, agriculture, energy, and higher education sectors, or other sectors as the cybersecurity advisory committee deems appropriate, in consultation with appropriate state agencies including, but not limited to, the energy resilience and

emergency management office at the department of commerce and the secretary of state's office; and

(iv) Examine the inconsistencies between state and federal law regarding cybersecurity.

(c) In fulfilling its duties under this section, the military department and the cybersecurity advisory committee shall collaborate with the consolidated technology services agency and the technology services board security subcommittee created in section 3 of this act.

(d) In order to protect sensitive security topics and information, the cybersecurity advisory committee must follow 6 C.F.R. Part 29, as it existed on the effective date of this section, procedures for handling critical infrastructure information. The reports produced, and information compiled, pursuant to this subsection are confidential and may not be disclosed under chapter 42.56 RCW.

(e) The cybersecurity advisory committee must contribute, as appropriate, to the emergency management council annual report and must meet quarterly. The cybersecurity advisory committee shall hold a joint meeting once a year with the technology services board security subcommittee created in section 3 of this act.

(f) For the purpose of this subsection, "ransomware" has the same meaning as in RCW 43.105.020.

(5)(a) The intrastate mutual aid committee is created and is a subcommittee of the emergency management council. The intrastate mutual aid committee consists of not more than five members who must be appointed by the council chair from council membership. The chair of the intrastate mutual aid committee is the military department representative appointed as a member of the council. Meetings of the intrastate mutual aid committee must be held at least annually.

(b) In support of the intrastate mutual aid system established in chapter 38.56 RCW, the intrastate mutual aid committee shall develop and update guidelines and procedures to facilitate implementation of the intrastate mutual aid system by member jurisdictions, including but not limited to the following: Projected or anticipated costs; checklists and forms for requesting and providing assistance; recordkeeping; reimbursement procedures; and other implementation issues. These guidelines and procedures are not subject to the rule-making requirements of chapter 34.05 RCW.

((~~(5)~~)) (6) On emergency management issues that involve early learning, kindergarten through twelfth grade, or higher education, the emergency management council must consult with representatives from the following organizations: The department of children, youth, and families; the office of the superintendent of public instruction; the state board for community and technical colleges; and an association of public baccalaureate degree-granting institutions.

NEW SECTION. **Sec. 3.** A new section is added to chapter 43.105 RCW to read as follows:

(1) The technology services board security subcommittee is created within the board. The membership of the technology services board security subcommittee is comprised of a subset of members appointed to the board, as determined by the chair of the technology services board. The chair may make additional appointments to the technology services board security subcommittee to ensure that relevant technology sectors are represented.

(2) The technology services board security subcommittee has the following powers and duties related to cybersecurity:

(a) Review emergent cyberattacks and threats to critical infrastructure sectors in order to identify existing gaps in state agency cybersecurity policies;

(b) Assess emerging risks to state agency information technology;

(c) Recommend a reporting and information sharing system to notify state agencies of new risks, risk treatment opportunities, and projected shortfalls in response and recovery;

(d) Recommend tabletop cybersecurity exercises, including data breach simulation exercises;

(e) Assist the office of cybersecurity created in RCW 43.105.450 in developing cybersecurity best practice recommendations for state agencies;

(f) Review the proposed policies and standards developed by the office of cybersecurity and recommend their approval to the full board;

(g) Review information relating to cybersecurity incidents and ransomware incidents to determine commonalities and develop best practice recommendations for public agencies; and

(h) Assist the agency and the military department in creating the state of cybersecurity report required in subsection (6) of this section.

(3) In providing staff support to the board, the agency shall work with the national institute of standards and technology and other federal agencies, private sector businesses, and private cybersecurity experts and bring their perspectives and guidance to the board for consideration in fulfilling its duties to ensure a holistic approach to cybersecurity in state government.

(4) To discuss sensitive security topics and information, the technology services board security subcommittee may hold a portion of its agenda in executive session closed to the public.

(5) The technology services board security subcommittee must meet quarterly. The technology services board security subcommittee must hold a joint meeting once a year with the cybersecurity advisory committee created in RCW 38.52.040(4).

(6) By December 1, 2023, and each December 1st thereafter, the military department and the agency are jointly responsible for providing a state of cybersecurity report to the governor and the appropriate committees of the legislature, consistent with RCW 43.01.036, specifying recommendations considered necessary to address cybersecurity in the state. The technology services board security subcommittee shall coordinate the implementation of any recommendations contained in the state of cybersecurity report. The technology services board security subcommittee may identify as confidential, and not subject to public disclosure, those portions of the report as the technology services board security subcommittee deems necessary to protect the security of public and private cyber systems.

(7) In fulfilling its duties under this section, the agency and the technology services board security subcommittee shall collaborate with the military department and the cybersecurity advisory committee created in RCW 38.52.040(4).

(8) The reports produced and information compiled pursuant to this section are confidential and may not be disclosed under chapter 42.56 RCW.

NEW SECTION. **Sec. 4.** A new section is added to chapter 42.56 RCW to read as follows:

The reports and information, or any portions thereof, that are designated confidential by the cybersecurity advisory committee under RCW 38.52.040(4) and the technology services board security subcommittee under section 3 of this act are confidential and may not be disclosed under this chapter.

Sec. 5. RCW 43.21F.045 and 2015 c 225 s 73 are each amended to read as follows:

(1) The department shall supervise and administer energy-related activities as specified in RCW 43.330.904 and shall advise the governor and the legislature with respect to energy matters affecting the state.

(2) In addition to other powers and duties granted to the department, the department shall have the following powers and duties:

(a) Prepare and update contingency plans for securing energy infrastructure against all physical and cybersecurity threats, and for implementation in the event of energy shortages or emergencies. The plans shall conform to chapter 43.21G RCW and shall include procedures for determining when these shortages or emergencies exist, the state officers and agencies to participate in the determination, and actions to be taken by various agencies and officers of state government in order to reduce hardship and maintain the general welfare during these emergencies. The department shall coordinate the activities undertaken pursuant to this subsection with other persons. The components of plans that require legislation for their implementation shall be presented to the legislature in the form of proposed legislation at the earliest practicable date. The department shall report to the governor and the legislature on probable, imminent, and existing energy shortages, and shall administer energy allocation and curtailment programs in accordance with chapter 43.21G RCW.

(b) Establish and maintain a central repository in state government for collection of existing data on energy resources, including:

(i) Supply, demand, costs, utilization technology, projections, and forecasts;

(ii) Comparative costs of alternative energy sources, uses, and applications; and

(iii) Inventory data on energy research projects in the state conducted under public and/or private auspices, and the results thereof.

(c) Coordinate federal energy programs appropriate for state-level implementation, carry out such energy programs as are assigned to it by the governor or the legislature, and monitor federally funded local energy programs as required by federal or state regulations.

(d) Develop energy policy recommendations for consideration by the governor and the legislature.

(e) Provide assistance, space, and other support as may be necessary for the activities of the state's two representatives to the Pacific northwest electric power and conservation planning council. To the extent consistent with federal law, the director shall request that Washington's councilmembers request the administrator of the Bonneville power administration to reimburse the state for the expenses associated with the support as provided in the Pacific Northwest Electric Power Planning and Conservation Act (P.L. 96-501).

(f) Cooperate with state agencies, other governmental units, and private interests in the prioritization and implementation of the state energy strategy elements and on other energy matters.

(g) Serve as the official state agency responsible for coordinating implementation of the state energy strategy.

(h) No later than December 1, 1982, and by December 1st of each even-numbered year thereafter, prepare and transmit to the governor and the appropriate committees of the legislature a report on the implementation of the state energy strategy and other important energy issues, as appropriate.

(i) Provide support for increasing cost-effective energy conservation, including assisting in the removal of impediments to timely implementation.

(j) Provide support for the development of cost-effective energy resources including assisting in the removal of impediments to timely construction.

(k) Adopt rules, under chapter 34.05 RCW, necessary to carry out the powers and duties enumerated in this chapter.

(l) Provide administrative assistance, space, and other support as may be necessary for the activities of the energy facility site evaluation council, as provided for in RCW 80.50.030.

(m) Appoint staff as may be needed to administer energy policy functions and manage energy facility site evaluation council activities. These employees are exempt from the provisions of chapter 41.06 RCW.

(3) To the extent the powers and duties set out under this section relate to energy education, applied research, and technology transfer programs they are transferred to Washington State University.

(4) To the extent the powers and duties set out under this section relate to energy efficiency in public buildings they are transferred to the department of enterprise services.

Passed by the Senate March 2, 2023.
Passed by the House April 6, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 125

[Substitute Senate Bill 5542]

ELECTRIC VEHICLE CHARGING EQUIPMENT—THEFT AND VANDALISM—SCRAP METAL

AN ACT Relating to preventing the destruction of electric vehicle supply equipment; reenacting and amending RCW 19.290.010; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that electric vehicle supply equipment made available for commercial or public use is susceptible to vandalism and theft because the equipment may contain metal components that thieves will seek to steal and sell. In order to discourage the destruction of electric vehicle supply equipment, the legislature finds that such equipment should be defined as commercial metal property and therefore be made subject to the same sale restrictions that apply to other commercial metal property.

Sec. 2. RCW 19.290.010 and 2013 c 322 s 4 are each reenacted and amended to read as follows:

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

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

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

(3) "Commercial metal property" means: Utility access covers; street light poles and fixtures; road and bridge guardrails; highway or street signs; water meter covers; traffic directional and control signs; traffic light signals; any metal property marked with the name of a commercial enterprise, including but not limited to a telephone, commercial mobile radio services, cable, electric, water, natural gas, or other utility, or railroad; unused or undamaged building construction materials consisting of copper pipe, tubing, or wiring, or aluminum wire, siding, downspouts, or gutters; aluminum or stainless steel fence panels made from one inch tubing, ((~~forty-two~~)) 42 inches high with four-inch gaps; aluminum decking, bleachers, or risers; historical markers; statue plaques; grave markers and funeral vases; components of electric vehicle supply equipment made available for commercial or public use; or agricultural irrigation wheels, sprinkler heads, and pipes.

(4) "Engage in business" means conducting more than ((~~twelve~~)) 12 transactions in a ((~~twelve-month~~)) 12-month period.

(5) "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.

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

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

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

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

(10) "Scrap metal business" means a scrap metal supplier, scrap metal recycler, and scrap metal processor.

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

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

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

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

Passed by the Senate February 27, 2023.

Passed by the House April 6, 2023.

Approved by the Governor April 20, 2023.

Filed in Office of Secretary of State April 21, 2023.

CHAPTER 126

[Engrossed Second Substitute Senate Bill 5582]

NURSES—EDUCATIONAL OPPORTUNITIES

AN ACT Relating to reducing barriers and expanding educational opportunities to increase the supply of nurses in Washington; amending RCW 18.79.150 and 18.79.110; adding a new section to chapter 28B.50 RCW; adding a new section to chapter 28C.18 RCW; adding new sections to chapter 18.79 RCW; adding a new section to chapter 28A.700 RCW; creating new sections; and providing expiration dates.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that nurses are essential to the operation of the state's health care system. Further, the legislature finds that the gap between demand for nurses and an available workforce continues to widen. Nursing professions continue to rank among the highest demand occupations in the state with the number of unfilled openings ranking near the top of all professional categories each month. The legislature finds that the need for nurses is particularly acute in rural hospital and clinical settings as well as long-term care facilities. Further, the legislature finds that there is a need to expand nursing credential opportunities through the expansion of existing postsecondary programs, the provision of adequate compensation for nurse educators, the creation of new and innovative approaches to health care credentials, the creation and expansion of proven pathways to health care careers within the K-12 system, and the streamlining of administrative requirements in the approval of new, high quality nursing education opportunities.

I. EXPAND NURSING CREDENTIAL OPPORTUNITIES

NEW SECTION. **Sec. 2.** (1) Subject to the availability of amounts appropriated for this specific purpose, the community and technical colleges shall develop a plan to train more nurses over the next four years. The state board shall consult with health care employers, local workforce development councils, and exclusive bargaining representatives of nursing professions in development of the plan. The plan must place particular emphasis on training health professionals in key shortage areas, including rural communities. In designing a plan, the state board must prioritize expanding existing programs or creating new ones which:

(a) Create new capacity to train licensed practical nurses and registered nurses through apprenticeship programs, certificate programs, associates degrees in nursing, and baccalaureate degrees in nursing;

(b) Expand training opportunities for rural and underserved students;

(c) Demonstrate or are expected to demonstrate long-term sustainability; and

(d) Expand partnerships between employers and exclusive bargaining representatives through joint workforce development initiatives including apprenticeships.

(2) The state board for community and technical colleges shall submit a report, in accordance with RCW 43.01.036, to the appropriate committees of the legislature by December 1, 2024, with the details of the plan to increase capacity in nursing education programs.

(3) This section expires August 1, 2025.

NEW SECTION. **Sec. 3.** A new section is added to chapter 28B.50 RCW to read as follows:

Subject to the availability of amounts appropriated for this specific purpose, the community and technical colleges shall design and implement an online curriculum and pathway to earn a licensed practical nursing credential. The college board shall select two colleges, one on either side of the crest of the Cascade mountains, to design and implement the online curriculum. The curriculum may include use of a mobile skills lab or other innovative approaches to ensure access to training opportunities for rural students.

NEW SECTION. **Sec. 4.** (1) The home care aide to licensed practical nurse apprenticeship pathway pilot program is created. The workforce training and education coordinating board and the nursing care quality assurance commission shall jointly administer the pilot program in consultation with the department of labor and industries. The pilot program must be located in three geographically disparate sites during the 2023-2025 fiscal biennium. The workforce training and education coordinating board, along with the nursing care quality assurance commission, and the department of labor and industries shall submit a report, in accordance with RCW 43.01.036, to the appropriate committees of the legislature by August 1, 2025, of the status of the pilot program and policy options to scale up the licensed practical nurse apprenticeship pathway pilot program statewide. The report must examine any barriers faced by current and prospective participants in the pilot program including, but not limited to, the academic preparation needs of home care aides selected for participation in the

pilot program and the availability of enrollment spots in nursing educational programs for qualified applicants.

(2) This section expires August 1, 2025.

NEW SECTION. **Sec. 5.** A new section is added to chapter 28C.18 RCW to read as follows:

Subject to the availability of amounts appropriated for this specific purpose, the workforce training and education coordinating board shall contract with a firm that has expertise in public relations and marketing to develop and execute a marketing plan about available training opportunities and jobs for certified nursing assistants, personal care aides, licensed practical nurses, licensed vocational nurses, and related nursing professions. The marketing plan must include targeted outreach to serve workforce needs in rural and underserved communities as well as long-term care facilities. Marketing materials containing information about educational and training opportunities should include both postsecondary degree and credential opportunities as well as apprenticeships and training opportunities provided as partnerships between employers and exclusive bargaining representatives.

NEW SECTION. **Sec. 6.** (1) The state board for community and technical colleges shall contract with a firm that has expertise in human resources consulting and health care to conduct a salary survey on nurse educator compensation. The salary survey must benchmark both the 50th and 75th percentile of compensation for similarly credentialed nurse educators in the state. The state board for community and technical colleges must report the results of the salary survey, in accordance with RCW 43.01.036, to the appropriate committees of the legislature by December 1, 2024.

(2) This section expires August 1, 2025.

II. ELIMINATE BOTTLENECKS IN NURSE TRAINING

Sec. 7. RCW 18.79.150 and 1994 sp.s. c 9 s 415 are each amended to read as follows:

An institution desiring to conduct a school of registered nursing or a school or program of practical nursing, or both, shall apply to the commission and submit evidence satisfactory to the commission that:

(1) It is prepared to carry out the curriculum approved by the commission for basic registered nursing or practical nursing, or both; and

(2) It is prepared to meet other standards established by law and by the commission.

The commission shall make, or cause to be made, such surveys of the schools and programs, and of institutions and agencies to be used by the schools and programs, as it determines are necessary. If in the opinion of the commission, the requirements for an approved school of registered nursing or a school or program of practical nursing, or both, are met, the commission shall approve the school or program. The nursing commission may grant approval to baccalaureate nursing education programs where the nurse administrator holds a graduate degree with a major in nursing and has sufficient experience as a registered nurse but does not hold a doctoral degree.

Sec. 8. RCW 18.79.110 and 2013 c 229 s 1 are each amended to read as follows:

(1) The commission shall keep a record of all of its proceedings and make such reports to the governor as may be required. The commission shall define by rules what constitutes specialized and advanced levels of nursing practice as recognized by the medical and nursing profession. The commission may adopt rules or issue advisory opinions in response to questions put to it by professional health associations, nursing practitioners, and consumers in this state concerning the authority of various categories of nursing practitioners to perform particular acts.

(2) The commission shall approve curricula and shall establish criteria for minimum standards for schools preparing persons for licensing as registered nurses, advanced registered nurse practitioners, and licensed practical nurses under this chapter. The commission shall approve such schools of nursing as meet the requirements of this chapter and the commission, and the commission shall approve establishment of basic nursing education programs and shall establish criteria as to the need for and the size of a program and the type of program and the geographical location. The commission shall establish criteria for proof of reasonable currency of knowledge and skill as a basis for safe practice after three years' inactive or lapsed status. The commission shall establish criteria for licensing by endorsement. The commission shall determine examination requirements for applicants for licensing as registered nurses, advanced registered nurse practitioners, and licensed practical nurses under this chapter, and shall certify to the secretary for licensing duly qualified applicants. The commission shall adopt rules which allow for one hour of simulated learning to be counted as equivalent to two hours of clinical placement learning, with simulated learning accounting for up to a maximum of 50 percent of the required clinical hours.

(3) The commission shall adopt rules on continuing competency. The rules must include exemptions from the continuing competency requirements for registered nurses seeking advanced nursing degrees. Nothing in this subsection prohibits the commission from providing additional exemptions for any person credentialed under this chapter who is enrolled in an advanced education program.

(4) The commission shall adopt such rules under chapter 34.05 RCW as are necessary to fulfill the purposes of this chapter.

(5) The commission is the successor in interest of the board of nursing and the board of practical nursing. All contracts, undertakings, agreements, rules, regulations, decisions, orders, and policies of the former board of nursing or the board of practical nursing continue in full force and effect under the commission until the commission amends or rescinds those rules, regulations, decisions, orders, or policies.

(6) The members of the commission are immune from suit in an action, civil or criminal, based on its disciplinary proceedings or other official acts performed in good faith as members of the commission.

(7) Whenever the workload of the commission requires, the commission may request that the secretary appoint pro tempore members of the commission. When serving, pro tempore members of the commission have all of the powers, duties, and immunities, and are entitled to all of the emoluments, including travel expenses, of regularly appointed members of the commission.

NEW SECTION. **Sec. 9.** A new section is added to chapter 18.79 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the legislature intends to expand the student nurse preceptor grant program to help reduce the shortage of health care training settings for students and increase the numbers of nurses in the workforce.

(2)(a) The grant program shall provide incentive pay for individuals serving as clinical supervisors to nursing candidates with a focus on acute shortage areas including those in rural and underserved communities and long-term care facilities. The desired outcomes of the grant program include increased clinical opportunities for nursing students. In part, increased clinical opportunities shall be achieved through reducing the required number of qualifying hours of precepting clinical instruction per student from 100 to 80. The commission shall consult with collective bargaining representatives of nurses who serve as clinical supervisors in the development of the grant program.

(b) The commission shall submit a report, in accordance with RCW 43.01.036, to the office of financial management and the appropriate committees of the legislature by September 30, 2025, on the outcomes of the grant program. The report must include:

(i) A description of the mechanism for incentivizing supervisor pay and other strategies;

(ii) The number of supervisors that received bonus pay and the number of sites used;

(iii) The number of students that received supervision at each site;

(iv) The number of supervision hours provided at each site;

(v) Initial reporting on the number of students who received supervision through the programs that moved into a permanent position with the program at the end of their supervision; and

(vi) Recommendations to scale up the program or otherwise recruit nurse preceptors in shortage areas.

III. GROW K-12 PATHWAYS INTO HEALTH CARE CREDENTIALS

NEW SECTION. **Sec. 10.** A new section is added to chapter 28A.700 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction shall establish and administer a grant program for the purpose of supporting high school career and technical education programs in starting or expanding offerings in health science programs.

(2) Grants must be awarded through a competitive grant process administered by the office of the superintendent of public instruction. In developing award criteria, the office of the superintendent of public instruction must consult with the workforce training and education coordinating board and the Washington state apprenticeship and training council.

(3) Grant funds may be allocated on a one-time or ongoing basis dependent on the needs of the program and may be used to purchase or improve curriculum, add additional staff, upgrade technology and equipment to meet industry standards, and for other purposes intended to initiate a new health science program or improve the rigor and quality of an existing health science program.

Priority must be given to grant applications that include partnerships between employers and exclusive bargaining representatives as sponsors or cosponsors.

(4) Programs receiving funds under this section must meet the minimum criteria for preparatory secondary career and technical education programs under RCW 28A.700.030.

NEW SECTION. **Sec. 11.** A new section is added to chapter 18.79 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the commission, in collaboration with rural hospitals, relevant employer and exclusive bargaining unit partnerships, nursing assistant-certified training programs, the department of health, and the department of labor and industries, shall establish at least two pilot projects for rural hospitals to utilize high school students who are training to become nursing assistant-certified or high school students who are nursing assistant-certified to help address the workforce shortages and promote nursing careers in rural hospitals. As part of the program, students must receive information about related careers and educational and training opportunities including certified medical assistants, licensed practical nurses, and registered nurses.

(2) At least one of the rural hospitals participating in the pilot projects must be east of the crest of the Cascade mountains and at least one of the rural hospitals participating in the pilot projects must be west of the crest of the Cascade mountains.

(3) The pilot projects shall prioritize using the nursing assistant-certified high school students to their full scope of practice and identify any barriers to doing this.

(4) The commission may contract with an employer and exclusive bargaining unit partnership, nursing consultant, and health services consultant to assist with establishing and supporting the pilot project, including identifying participants, coordinating with the groups and agencies as referenced in subsection (1) of this section and other stakeholders, and preparing reports to the legislature.

(5) The commission shall submit a report, in accordance with RCW 43.01.036, to the health care committees of the legislature by December 1, 2024, and December 1, 2025, with the status of the pilot projects and any findings and recommendations.

(6) This section expires July 1, 2026.

Passed by the Senate March 6, 2023.
Passed by the House April 7, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 127

[Senate Bill 5683]

INDIAN CHILDREN—CHILD-SPECIFIC FOSTER CARE LICENSES

AN ACT Relating to child-specific foster care licenses for placement of an Indian child in the custody of a federally recognized tribe or the tribe's child placing agency; and amending RCW 74.15.125.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 74.15.125 and 2021 c 304 s 30 are each amended to read as follows:

(1) The department may issue a probationary license to a licensee who has had a license but is temporarily unable to comply with a rule or has been the subject of multiple complaints or concerns about noncompliance if:

(a) The noncompliance does not present an immediate threat to the health and well-being of the children but would be likely to do so if allowed to continue; and

(b) The licensee has a plan approved by the department to correct the area of noncompliance within the probationary period.

(2) A probationary license may be issued for up to six months, and at the discretion of the department it may be extended for an additional six months. The department shall immediately terminate the probationary license, if at any time the noncompliance for which the probationary license was issued presents an immediate threat to the health or well-being of the children.

(3) The department may, at any time, issue a probationary license for due cause that states the conditions of probation.

(4) An existing license is invalidated when a probationary license is issued.

(5) At the expiration of the probationary license, the department shall reinstate the original license for the remainder of its term, issue a new license, or revoke the original license.

(6) A right to an adjudicative proceeding shall not accrue to the licensee whose license has been placed on probationary status unless the licensee does not agree with the placement on probationary status and the department then suspends, revokes, or modifies the license.

(7)(a) The department may issue a child-specific license to ((~~a~~)):

(i) A relative, as defined in RCW 13.36.020, or a suitable person, as defined in RCW 13.36.020, who opts to become licensed for placement of a specific child and that child's siblings or relatives in the department's care, custody, and control; or

(ii) An Indian child's family or extended family member as defined in RCW 13.38.040 who opts to become licensed for placement of a specific Indian child and that child's siblings or relatives in the custody of an Indian tribe as defined in RCW 43.376.010 or the tribe's child placing agency.

(b) Such individuals must meet all minimum licensing requirements for foster family homes established pursuant to RCW 74.15.030 and are subject to child-specific license criteria, which the department is authorized to establish by rule.

(c) For purposes of federal funding, a child-specific license is considered a full license with all of the rights and responsibilities of a foster family home license, except that at the discretion of the department the licensee may only receive placement of specific children pursuant to (a) of this subsection.

(d) A child-specific license does not confer upon the licensee a right to placement of a particular child, nor does it confer party status in any proceeding under chapter 13.34 RCW.

(e) The department shall seek input from the following stakeholders during the development and adoption of rules necessary to implement this section: Representatives from the kinship care oversight committee, an organization that

represents current and former foster youth, an organization that represents child placing agencies, and a statewide advisory group of foster youth and alumni of foster care. The department shall seek tribal input as outlined in the department's government-to-government policy, per RCW 43.376.020.

Passed by the Senate March 7, 2023.
Passed by the House April 7, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 128

[Second Substitute House Bill 1013]

REGIONAL APPRENTICESHIP PREPARATION PILOT PROGRAM

AN ACT Relating to establishing regional apprenticeship programs through educational service districts; reenacting and amending RCW 28A.300.196; adding new sections to chapter 28A.630 RCW; creating new sections; and providing expiration dates.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that state recognized apprenticeship preparation programs, programs that are also referred to as preapprenticeship programs, provide important graduation pathways and future career opportunities to students. These programs also benefit employers, providing them with an opportunity to train students for jobs in industries that are important to local communities.

Regional apprenticeship preparation programs are one approach to help coordinate the state's educational offerings with local resources, work-integrated learning opportunities, and future career pathways.

To assist these efforts, the legislature intends to encourage the development of a state-recognized and regionally serving regional apprenticeship preparation pilot program and associated supports. Examples of these supports include funding for staff to oversee the program and other funding needed to establish the program and secure necessary agreements with local stakeholders including unions, state registered apprenticeship programs, and school districts. The legislature intends for this program to be known as the regional apprenticeship preparation pilot program.

NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.630 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction and educational service districts shall establish the regional apprenticeship preparation pilot program.

(2) The purpose of the pilot program is to identify common best practices and processes for establishing regional apprenticeship preparation programs that support postsecondary success for students and strengthen community engagement in schools and school districts.

(3) The pilot program must consist of five sites: Three located west of the crest of the Cascade mountains; and two located east of the crest of the Cascade mountains. The office of the superintendent of public instruction and educational service districts must ensure that the sites are geographically dispersed, with one

western Washington site located in a school district with a collaboratively developed regional apprenticeship pathways program, and a second western Washington site located in a school district with a preapprenticeship program recognized by the Washington state apprenticeship and training council after July 1, 2021, but before September 1, 2021. The eastern Washington sites must also be geographically dispersed and at least one eastern Washington site must be located in an educational service district with rural communities that lack convenient access to skill centers or other workforce development facilities or programs.

(4) In implementing the pilot program, the educational service districts must:

(a) Ensure that the pilot program is:

(i) An education-based apprenticeship preparation program recognized by the Washington state apprenticeship and training council; and

(ii) Developed as a collaborative partnership involving local school districts, charter schools, state-tribal compact schools, community or technical colleges, local labor unions, local Washington state apprenticeship and training council registered apprenticeship programs, and local industry groups;

(b) Provide students with dual credit opportunities to meet high school graduation requirements and earn credit toward a postsecondary degree or industry recognized credential;

(c) Provide students with preferred or direct entry into an aligned state registered apprenticeship program; and

(d) Provide data requested by the office of the superintendent of public instruction to support the evaluation required by section 3 of this act.

(5) For the purposes of this section, "apprenticeship preparation program," also referred to as a preapprenticeship program, means an apprenticeship preparation program that is recognized by the Washington state apprenticeship and training council.

(6) This section expires June 30, 2027.

NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.630 RCW to read as follows:

(1) The office of the superintendent of public instruction, in collaboration with the state board for community and technical colleges, the Washington state apprenticeship and training council, the Washington association for career and technical education, and the work-integrated learning advisory committee established in RCW 28A.300.196, must evaluate the pilot program established in section 2 of this act and best practices for increasing:

(a) Awareness about career and technical education, including participation in career and technical student organizations, dual credit opportunities, core plus, and career and technical education course equivalencies;

(b) Awareness about preapprenticeship and postsecondary career opportunities for students and employers;

(c) The availability and variety of dual credit and industry-related and postsecondary articulation opportunities; and

(d) Community and industry support for preapprenticeships, internships, externships, and all work-integrated learning opportunities.

(2)(a) By June 30, 2027, the office of the superintendent of public instruction must report the results of the evaluation to the governor, the state

board of education, the student achievement council, the workforce training and education coordinating board, and, in accordance with RCW 43.01.036, the appropriate committees of the legislature.

(b) The report required by this subsection (2) must include: An analysis of barriers to the establishment and support of recognized apprenticeship preparation programs and work-integrated instructional programs; recommended policies to implement recognized apprenticeship preparation programs and work-integrated strategies that increase the college and career readiness of students statewide; and recommendations for legislative action to establish common standards for the operations of regional apprenticeship preparation programs and other work-integrated learning opportunities, and authorize additional regional apprenticeship preparation programs and other work-integrated learning opportunities. The report may also include recommendations for actions to improve the cohesion, coordination, and quality of work-integrated learning opportunities, including regional apprenticeship preparation programs, throughout the state.

(3) For the purposes of this section, "apprenticeship preparation program" has the same meaning as in section 2 of this act.

(4) This section expires June 30, 2027.

Sec. 4. RCW 28A.300.196 and 2018 c 206 s 3 are each reenacted and amended to read as follows:

(1) The superintendent of public instruction, in consultation with the employment security department and the workforce training and education coordinating board, shall convene a work-integrated learning advisory committee to provide advice to the legislature and the education and workforce sectors on creating opportunities for students to: Explore and understand a wide range of career-related opportunities through applied learning; engage with industry mentors; and plan for career and college success.

(2) The committee shall:

(a) Assist the office of the superintendent of public instruction in the development of an application process and the selection of local applicant schools to participate in the initiative established in RCW 28A.630.135;

(b) Advise the superintendent of public instruction on the development and implementation of work-integrated learning instructional programs;

(c) Review the instructional programs of projects funded through the career connect Washington program with grant moneys from the federal workforce innovation and opportunity act, P.L. 113-128, related to work-integrated learning, a type of learning that is also referred to as "career connected learning," and of local applicant schools selected to develop and implement work-integrated learning project programs under RCW 28A.630.135. The purpose of the review required by this subsection (2)(c) is to determine:

(i) The impact on in-school progress, high school graduation rates, state test scores, indicators of career and college readiness, employment outcomes, and community partnerships. In accordance with this subsection (2)(c), and to the maximum extent practicable, the review must consider both overall impacts and reductions or other changes in opportunity gaps;

(ii) Best practices for partnering with industry and the local community to create opportunities for applied learning through internships, externships, registered youth apprenticeships, and mentorships; and

(iii) Best practices for linking high school and beyond plans with work-integrated and career-related learning opportunities and increasing college readiness;

(d) Analyze barriers to statewide adoption of work-integrated and career-related learning opportunities and instructional programs;

(e) Recommend policies to implement work-integrated and career-related strategies that increase college and career readiness of students statewide. Policies recommended under this subsection (2)(e) may include, but are not limited to: (i) Policies related to aligning career and technical education programs with statewide and local industry projections and career cluster needs evidenced through economic development data and appropriate longitudinal data; and (ii) the completion of remedial courses required by colleges and universities;

(f) Consult with individuals from the public and private sectors with expertise in career and technical education and work-integrated training, including representatives of labor unions, professional technical organizations, and business and industry; and

(g) ((~~Work collaboratively, as appropriate, with the expanded learning opportunities advisory council as provided in chapter . . ., Laws of 2018 (Engrossed Substitute House Bill No. 2802)~~)) Collaborate in the evaluation required by section 3 of this act.

(3) The committee must, at a minimum, be composed of the following members:

(a) One member from each of the two largest caucuses of the senate, appointed by the president of the senate;

(b) One member from each of the two largest caucuses of the house of representatives, appointed by the speaker of the house of representatives;

(c) The superintendent of public instruction or the superintendent's designee;

(d) One educator representing the K-12 career and technical education sector, appointed by the superintendent of public instruction, as determined from recommendations of the association for career and technical education;

(e) One school counselor appointed by the superintendent of public instruction, as determined from recommendations of the school counselor association;

(f) One educator representing the community and technical colleges, appointed by the state board for community and technical colleges;

(g) One member of the governor's office specializing in career and technical education and workforce needs, appointed by the governor; and

(h) One member of the workforce training and education coordinating board, designated by the workforce training and education coordinating board.

(4) The committee shall convene a subcommittee that includes members representing manufacturing, industry, labor, apprenticeships, and other members with specialized expertise.

(5) The chair or cochairs of the committee and subcommittee must be selected by the members of the committee.

(6) Staff support for the committee and the subcommittee must be provided by the office of the superintendent of public instruction.

(7) The committee shall report its findings and recommendations to the state board for community and technical colleges, the state board of education, the student achievement council, and, in accordance with RCW 43.01.036, the education committees and economic development committees of the house of representatives and the senate by July 1, 2022.

(8) This section expires ((~~September 1, 2022~~)) June 30, 2027.

NEW SECTION. **Sec. 5.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void.

Passed by the House March 2, 2023.
Passed by the Senate April 10, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 129

[House Bill 1023]

WIRE TAPS—REPORTS TO ADMINISTRATIVE OFFICE OF THE COURTS—REPEAL

AN ACT Relating to the elimination of wire tap authorization reporting to the administrative office of the courts; and repealing RCW 9.73.120.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** RCW 9.73.120 (Reports—Required, when, contents) and 1998 c 217 s 3, 1989 c 271 s 207, & 1977 ex.s. c 363 s 5 are each repealed.

Passed by the House March 7, 2023.
Passed by the Senate April 5, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 130

[House Bill 1030]

APPLIED DOCTORATE DEGREES—REGIONAL UNIVERSITIES

AN ACT Relating to applied doctorate degree-granting authority; adding a new section to chapter 28B.35 RCW; and repealing RCW 28B.35.215, 28B.35.216, and 28B.35.218.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 28B.35 RCW to read as follows:

The board of trustees of the regional universities may offer applied, but not research, doctorate level degrees.

NEW SECTION. **Sec. 2.** The following acts or parts of acts are each repealed:

(1) RCW 28B.35.215 (Doctorate level degrees in physical therapy) and 2012 c 229 s 812 & 2001 c 252 s 1;

(2) RCW 28B.35.216 (Doctorate level degrees in audiology) and 2013 c 281 s 1; and

(3) RCW 28B.35.218 (Doctorate level degrees in education) and 2020 c 15 s 1.

Passed by the House January 26, 2023.
Passed by the Senate April 6, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 131

[House Bill 1031]

MEDAL OF VALOR AWARD—PRESENTATION

AN ACT Relating to the medal of valor award presentation; and amending RCW 1.60.030.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 1.60.030 and 2015 c 4 s 3 are each amended to read as follows:

(1) The award will be presented by the governor of the state of Washington to the recipient or recipients ((~~only during a joint session of both houses of the legislature~~)).

(2) If the governor is unable to present the award ((~~due to the disability or illness of the governor~~)), the governor may delegate the presenting of the award to the president of the senate, the speaker of the house of representatives, or the chief justice of the supreme court.

Passed by the House January 26, 2023.
Passed by the Senate April 6, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 132

[Second Substitute House Bill 1032]

ELECTRIC UTILITIES—WILDFIRE RISK MITIGATION

AN ACT Relating to mitigating the risk of wildfires through electric utility planning and identification of best management practices appropriate to each electric utility's circumstances; amending RCW 76.04.780; adding a new section to chapter 76.04 RCW; adding a new section to chapter 80.28 RCW; adding a new section to chapter 19.29A RCW; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) It is in the best interest of the state, our citizens, and our natural resources to identify the sources of wildland fires; identify and implement best practices to reduce the prevalence and intensity of those wildland fires; put those practices in place; and by putting those practices in place, reduce the risk of wildland fires and damage and losses resulting from those fires.

(2) The legislature finds that electric utilities are partners with relevant state agencies, emergency responders, and public and private entities in identifying best practices to reduce the risk of and prevent wildland fires. Many electric utilities have developed and are implementing wildfire mitigation plans. The legislature further finds that electric utilities should adopt and implement

wildfire mitigation plans, and that electric utilities should be informed by recognized best practices, as applicable to their geography, terrain, vegetation, and other characteristics specific in their service area, for reducing wildland fire risk and reducing damage from wildland fires as may be ignited by electric utility equipment.

(3) Therefore, the legislature intends to authorize the identification of best practices guidelines and to require that electric utilities provide their wildfire mitigation plans to the state in order to promote public transparency.

NEW SECTION. **Sec. 2.** A new section is added to chapter 76.04 RCW to read as follows:

(1) The department, in consultation with the energy resilience and emergency management office of the department of commerce, shall contract with an independent consultant with experience in developing electric utility wildfire mitigation plans to develop an electric utility wildfire mitigation plan format and a list of elements to be included in electric utility wildfire mitigation plans. When developing the plan format and list of elements, the department shall seek input from the utilities and transportation commission, the utility wildland fire prevention advisory committee, electric utilities, the state fire marshal, the governor's office of Indian affairs, and the public. By April 1, 2024, the department shall make public a recommended format and list of elements for electric utility wildfire mitigation plans. The department may update these guidelines annually if needed, but not more than once in each year.

(2) The recommended elements must acknowledge that utilities serve areas that vary in topography, vegetation, population, and other characteristics, and that best practices guidelines within each element must recognize that a utility's wildfire mitigation measures will be designed to fit site-specific circumstances. The recommended elements must include, but are not limited to:

(a) Vegetation management along transmission and distribution lines and near associated equipment;

(b) Infrastructure inspection and maintenance repair activities, schedules, and recordkeeping;

(c) Modifications or upgrades to facilities and construction of new facilities to incorporate cost-effective measures to minimize fire risk;

(d) Preventative programs, including adoption of new technologies to harden utility infrastructure;

(e) Operational procedures;

(f) Identification of appropriate widths for vegetation management and rights-of-way, including the consideration of fire-resistant vegetation alternatives; and

(g) Public and interested parties' engagement and communication plans addressing wildfire safety and risk mitigation.

(3) The recommended format and list of elements identified by the department must be forwarded to the utilities and transportation commission, the energy resilience and emergency management office of the department of commerce, and all electric utilities in Washington state for a review period of no less than three months prior to finalizing the format and list of elements that utilities will use to adopt or update their electric utility wildfire mitigation plan.

(4) The department will provide technical assistance to all electric utilities to support inclusion of these guidelines in the revision of their plans.

(5) By December 31, 2024, the department must submit to the appropriate committees of the senate and house of representatives a compilation and summary of existing wildfire mitigation plans maintained by electric utilities.

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

(a) "Consumer-owned utility" means a municipal electric utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, or a mutual corporation or association formed under chapter 24.06 RCW, that is engaged in the business of distributing electricity to more than one retail electric customer in the state.

(b) "Electric utility" means a consumer-owned utility or an investor-owned utility as defined in this section.

(c) "Investor-owned utility" means a corporation owned by investors that meets the definition of "corporation" as defined in RCW 80.04.010 and is engaged in distributing electricity to more than one retail electric customer in the state.

NEW SECTION. **Sec. 3.** A new section is added to chapter 80.28 RCW to read as follows:

(1) By October 31, 2024, and every three years thereafter, each investor-owned utility must review and, if appropriate, revise its wildfire mitigation plan. When reviewing or revising a wildfire mitigation plan, an investor-owned utility must use the recommended format and elements pursuant to section 2 of this act.

(a) Local fire protection districts must be provided the opportunity to provide input for each wildfire mitigation plan. Each investor-owned utility must submit its wildfire mitigation plan to the utilities and transportation commission for review, and the commission will confirm whether or not the plan contains the recommended elements. Each investor-owned utility must provide a copy of their wildfire mitigation plan to the department of natural resources, along with a list and description of wildland fires involving utility equipment over the previous two years as reported by the department of natural resources. The wildfire mitigation plan must be submitted to the utility wildland fire prevention advisory committee created in RCW 76.04.780 to be posted on their website as specified in RCW 76.04.780.

(b) The utilities and transportation commission is not liable for an investor-owned utility's implementation of its wildfire mitigation plan. An investor-owned utility may pursue recovery of costs and investments associated with a wildfire mitigation plan through a proceeding to set rates at the commission.

(c) Investor-owned utilities are encouraged to submit any 2023 wildfire mitigation plans to the utility wildland fire prevention advisory committee created in RCW 76.04.780 prior to the revision date required in this subsection.

(2) Nothing in this section prohibits an investor-owned utility from reviewing or updating its wildfire mitigation plan more often than required in subsection (1) of this section.

(3) For the purposes of this section, the term "investor-owned utility" means a corporation owned by investors that meets the definition of "corporation" as defined in RCW 80.04.010 and is engaged in distributing electricity to more than one retail electric customer in the state.

NEW SECTION. **Sec. 4.** A new section is added to chapter 19.29A RCW to read as follows:

(1) By October 31, 2024, and every three years thereafter, each consumer-owned utility must review, if appropriate revise, and adopt its wildfire mitigation plan. When reviewing or revising a wildfire mitigation plan, a consumer-owned utility must use the recommended format and elements pursuant to section 2 of this act.

(a) The governing board of each consumer-owned utility shall review the plan. Local fire protection districts must be provided the opportunity to provide input. After the governing board's review, the utility must provide a copy to the department of natural resources, along with a list and description of wildland fires involving utility equipment within its customer service area over the previous two years as reported by the department of natural resources. The plan must be submitted to the utility wildland fire prevention advisory committee created in RCW 76.04.780 to be posted on their website as specified in RCW 76.04.780.

(b) The department of natural resources is not responsible for a consumer-owned utility's implementation of its wildfire mitigation plan. The department's review of the consumer-owned utility's wildfire mitigation plan and any recommendations associated with the review do not constitute a reasonableness review or approval of recovery of any measure, investment, cost, or other component of the plan.

(c) Consumer-owned utilities are encouraged to submit any 2023 wildfire mitigation plans to the utility wildland fire prevention advisory committee created in RCW 76.04.780 prior to the revision date required in this subsection.

(2) Two or more abutting consumer-owned utilities may codevelop a wildfire mitigation plan. Wildfire mitigation plans that are codeveloped by more than one utility may identify areas of common implementation, including communication protocols, that will assist in implementing the identified recommended elements pursuant to section 2 of this act.

(3) Nothing in this section prohibits a consumer-owned utility from reviewing or updating its wildfire mitigation plan more often than required in subsection (1) of this section.

Sec. 5. RCW 76.04.780 and 2021 c 183 s 1 are each amended to read as follows:

(1) The commissioner shall convene a utility wildland fire prevention advisory committee with electrical power distribution utilities by August 1, 2021. The duties of the advisory committee are to advise the department on issues including, but not limited to:

(a) Matters related to the ongoing implementation of the relevant recommendations of the electric utility wildland fire prevention task force established in chapter 77, Laws of 2019, and by August 1, 2021, with an update by May 30, 2024, and updated every three years thereafter:

(i) ((~~Finalizing~~)) Implementing and updating as appropriate a model agreement for managing danger trees and other vegetation adjacent to utility rights-of-way on state uplands managed by the department;

(ii) Implementing and updating recommendations of the task force related to communications and information exchanges between the department and utilities;

(iii) Implementing and updating recommendations of the task force related to protocols and thresholds when implementing provisions of RCW 76.04.015; and

(iv) Implementing and updating recommendations of the task force related to creating rosters of certified wildland fire investigator firms or persons and qualified utility operations personnel who may be called upon as appropriate;

(b) Providing a forum for electric utilities, the department, and other fire suppression organizations of the state to identify and develop solutions to issues of ((~~wildfire~~)) wildland fire prevention and risk mitigation specifically related to electric utilities transmission and distribution networks, identification of best management practices, electric utility infrastructure protection, and wildland fire suppression and response;

(c) Establishing and updating joint public communications protocols among members of the advisory committee, and other entities, to inform residents of the state of potential critical fire weather events and the potential for power outages or disruptions;

(d) Providing comment to the wildland fire advisory committee established in RCW 76.04.179 through an annual presentation addressing policies and priorities of the utility wildland fire prevention advisory committee; and

(e) All other related issues deemed necessary by the commissioner.

(2) By August 1, 2021, the department must post on its website and update quarterly as necessary:

(a) Communication protocols and educational exchanges between the department and electric utilities;

(b) A voluntary model danger tree management agreement to utilities for their consideration for execution with the department;

(c) Protocols and thresholds that may be utilized when the department's investigation involves electric utility infrastructure or potential electric utility liability; and

(d) A roster of third-party certified wildland fire investigators and qualified utility personnel that may assist the department or utility in understanding and reducing risks and liabilities from wildland fire.

(3) Beginning July 1, 2022, and at the beginning of each subsequent biennium thereafter, the department must submit, in compliance with RCW 43.01.036, a report describing the prior biennium proceedings of the advisory committee, including identification of recommended legislation, if any, necessary to prevent wildfires related to electric utilities.

(4) The utility wildland fire prevention advisory committee must develop recommendations for strengthening state agency coordination of wildland fire risk reduction, prevention, and suppression. In this work, the utility wildland fire prevention advisory committee shall seek the views of the wildland fire advisory committee created under RCW 76.04.179, as well as the views of the energy resilience and emergency management office of the department of commerce and the utilities and transportation commission.

(5) The utility wildland fire prevention advisory committee must host electric utility wildfire mitigation plans as described under section 4 of this act on its website.

(6) The commissioner or the commissioner's designee must chair the advisory committee created in subsection (1) of this section and must appoint

advisory committee members. The commissioner shall invite a representative of the energy resilience and emergency management office of the department of commerce and a representative of the utilities and transportation commission. Advisory committee membership should also include:

(a) Entities providing retail electric service, including:

(i) One person representing each investor-owned utility;

(ii) Two persons representing municipal utilities;

(iii) Two persons representing public utility districts;

(iv) Two persons representing rural electric cooperatives or mutual corporations or associations;

(v) One person representing small forestland owners;

(vi) One person representing industrial forestland owners;

(b) Other persons with expertise in wildland fire risk reduction and prevention; ((~~and~~))

(c) ((~~No more than two other~~)) Other persons ((~~designated by~~)) whom the commissioner((~~.~~

~~(5) In addition to the advisory committee membership established in subsection (4) of this section, the commissioner shall designate two additional advisory committee members~~)) deems appropriate to carry out the functions of the advisory committee; and

(d) Two persons representing historically marginalized or underrepresented communities.

(((~~(6)~~))) (7) The commissioner or the commissioner's designee shall convene the initial meeting of the advisory committee. The advisory committee chair must schedule and hold meetings on a regular basis, at a minimum of twice per year but not more than four times per year, in order to expeditiously accomplish the duties and make recommendations regarding the elements described in this section.

(((~~(7)~~))) (8) The members of the advisory committee, or individuals acting on their behalf, are immune from civil liability for official acts performed in the course of their duties specifically related to the advisory committee.

(((~~(8)~~))) (9) Participation on the advisory committee created in subsection (1) of this section is strictly voluntary and without compensation. A lack of volunteers or applicants for any category may not prevent the committee from meeting and conducting its business.

(((~~(9)~~))) (10) Any requirements in this section are subject to the availability of amounts appropriated for the specific purposes described.

NEW SECTION. **Sec. 6.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void.

Passed by the House March 4, 2023.

Passed by the Senate April 8, 2023.

Approved by the Governor April 20, 2023.

Filed in Office of Secretary of State April 21, 2023.

CHAPTER 133

[House Bill 1046]

PUBLIC HOUSING AUTHORITY DEVELOPMENTS—AREA MEDIAN INCOME LIMIT

AN ACT Relating to expanding housing supply by supporting the ability of public housing authorities to finance affordable housing developments by rebenchmarking area median income limits; and amending RCW 35.82.070.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 35.82.070 and 2022 c 273 s 2 are each amended to read as follows:

An authority shall constitute a public body corporate and politic, exercising public and essential governmental functions, and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the following powers in addition to others herein granted:

(1) To sue and be sued; to have a seal and to alter the same at pleasure; to have perpetual succession; to make and execute contracts and other instruments, including but not limited to partnership agreements and joint venture agreements, necessary or convenient to the exercise of the powers of the authority; to participate in the organization or the operation of a nonprofit corporation which has as one of its purposes to provide or assist in the provision of housing for persons of low income; and to make and from time to time amend and repeal bylaws, rules and regulations, not inconsistent with this chapter, to carry into effect the powers and purposes of the authority.

(2) Within its area of operation: To prepare, carry out, acquire, lease and operate housing projects; to provide for the construction, reconstruction, improvement, alteration or repair of any housing project or any part thereof; to agree to rent or sell dwellings forming part of the projects to or for persons of low income. Where an agreement or option is made to sell a dwelling to a person of low income, the authority may convey the dwelling to the person upon fulfillment of the agreement irrespective of whether the person is at the time of the conveyance a person of low income. Leases, options, agreements, or conveyances may include such covenants as the authority deems appropriate to assure the achievement of the objectives of this chapter.

(3) To acquire, lease, rent, sell, or otherwise dispose of any commercial space located in buildings or structures containing a housing project or projects.

(4) To arrange or contract for the furnishing by any person or agency, public or private, of services, privileges, works, or facilities for, or in connection with, a housing project or the occupants thereof; and (notwithstanding anything to the contrary contained in this chapter or in any other provision of law) to include in any contract let in connection with a project, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum wages and maximum hours of labor, and comply with any conditions which the federal government may have attached to its financial aid of the project.

(5) To lease or rent any dwellings, houses, accommodations, lands, buildings, structures or facilities embraced in any housing project and (subject to the limitations contained in this chapter) to establish and revise the rents or charges therefor; to own or manage buildings containing a housing project or projects as well as commercial space or other dwelling units that do not constitute a housing project as that term is defined in this chapter. However,

notwithstanding the provisions under subsection (1) of this section, dwelling units made available or sold to persons of low income, together with functionally related and subordinate facilities, shall occupy at least 50 percent of the interior space in the total development owned by the authority or at least 50 percent of the total number of units in the development owned by the authority, whichever produces the greater number of units for persons of low income, and for mobile home parks, the mobile home lots made available to persons of low income shall be at least 50 percent of the total number of mobile home lots in the park owned by the authority; to own, hold, and improve real or personal property; to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, or otherwise including financial assistance and other aid from the state or any public body, person or corporation, any real or personal property or any interest therein; to acquire by the exercise of the power of eminent domain any real property; to sell, lease, exchange, transfer, assign, pledge, or dispose of any real or personal property or any interest therein; to sell, lease, exchange, transfer, or dispose of any real or personal property or interest therein at less than fair market value to a governmental entity for any purpose when such action assists the housing authority in carrying out its powers and purposes under this chapter, to a low-income person or family for the purpose of providing housing for that person or family, or to a nonprofit corporation provided the nonprofit corporation agrees to sell the property to a low-income person or family or to use the property for the provision of housing for persons of low income for at least 20 years; to insure or provide for the insurance of any real or personal property or operations of the authority against any risks or hazards; to procure or agree to the procurement of insurance or guarantees from the federal government of the payment of any bonds or parts thereof issued by an authority, including the power to pay premiums on any such insurance.

(6) To contract with a property management services company for purposes of operating a housing project. Rental and other project revenues collected by a property management services company from the housing project's tenants and used to pay administrative operating and ordinary maintenance costs incurred by the company under the terms of the contract with the authority shall be treated as private funds, and any resulting services as executed at the cost of the property management services company and the housing project's tenants, until the net operating revenues are distributed to the authority for its exclusive use and control. For the purposes of this subsection, "ordinary maintenance" only includes: Routine repairs related to unit turnover work; grounds and parking lot upkeep; and repairs and cleaning work needed to keep a property in a clean, safe, sanitary, and rentable condition that are customarily undertaken or administered by residential property management services companies. "Ordinary maintenance" does not include repairs that would be considered replacement capital repairs or scheduled regular maintenance work on plumbing, electrical, or HVAC/R systems or their components.

(7) To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control; to purchase its bonds at a price not more than the principal amount thereof and accrued interest, all bonds so purchased to be canceled.

(8) Within its area of operation: To investigate into living, dwelling and housing conditions and into the means and methods of improving such conditions; to determine where slum areas exist or where there is a shortage of decent, safe and sanitary dwelling accommodations for persons of low income; to make studies and recommendations relating to the problem of clearing, replanning and reconstructing of slum areas, and the problem of providing dwelling accommodations for persons of low income, and to cooperate with the city, the county, the state or any political subdivision thereof in action taken in connection with such problems; and to engage in research, studies and experimentation on the subject of housing.

(9) Acting through one or more commissioners or other person or persons designated by the authority: To conduct examinations and investigations and to hear testimony and take proof under oath at public or private hearings on any matter material for its information; to administer oaths, issue subpoenas requiring the attendance of witnesses or the production of books and papers and to issue commissions for the examination of witnesses who are outside of the state or unable to attend before the authority, or excused from attendance; to make available to appropriate agencies (including those charged with the duty of abating or requiring the correction of nuisances or like conditions, or of demolishing unsafe or insanitary structures within its area of operation) its findings and recommendations with regard to any building or property where conditions exist which are dangerous to the public health, morals, safety or welfare.

(10) To initiate eviction proceedings against any tenant as provided by law. Activity occurring in any housing authority unit that constitutes a violation of chapter 69.41, 69.50, or 69.52 RCW shall constitute a nuisance for the purpose of RCW 59.12.030(5).

(11) To exercise all or any part or combination of powers herein granted.

No provisions of law with respect to the acquisition, operation or disposition of property by other public bodies shall be applicable to an authority unless the legislature shall specifically so state.

(12) To agree (notwithstanding the limitation contained in RCW 35.82.210) to make such payments in lieu of taxes as the authority finds consistent with the achievement of the purposes of this chapter.

(13) Upon the request of a county or city, to exercise any powers of a community renewal agency under chapter 35.81 RCW or a public corporation, commission, or authority under chapter 35.21 RCW.

(14) To exercise the powers granted in this chapter within the boundaries of any city, town, or county not included in the area in which such housing authority is originally authorized to function: PROVIDED, HOWEVER, The governing or legislative body of such city, town, or county, as the case may be, adopts a resolution declaring that there is a need for the authority to function in such territory.

(15) To administer contracts for assistance payments to persons of low income in accordance with section 8 of the United States Housing Act of 1937, as amended by Title II, section 201 of the Housing and Community Development Act of 1974, P.L. 93-383.

(16) To sell at public or private sale, with or without public bidding, for fair market value, any mortgage or other obligation held by the authority.

(17) To the extent permitted under its contract with the holders of bonds, notes, and other obligations of the authority, to consent to any modification with respect to rate of interest, time, and payment of any installment of principal or interest security, or any other term of any contract, mortgage, mortgage loan, mortgage loan commitment, contract, or agreement of any kind to which the authority is a party.

(18) To make, purchase, participate in, invest in, take assignments of, or otherwise acquire loans to persons of low income to enable them to acquire, construct, reconstruct, rehabilitate, improve, lease, or refinance their dwellings, and to take such security therefor as is deemed necessary and prudent by the authority.

(19) To make, purchase, participate in, invest in, take assignments of, or otherwise acquire loans for the acquisition, construction, reconstruction, rehabilitation, improvement, leasing, or refinancing of land, buildings, or developments for housing for persons of low income. For purposes of this subsection, development shall include either land or buildings or both.

(a) Any development financed under this subsection shall be subject to an agreement that for at least 20 years the dwelling units made available to persons of low income together with functionally related and subordinate facilities shall occupy at least 50 percent of the interior space in the total development or at least 50 percent of the total number of units in the development, whichever produces the greater number of units for persons of low income. For mobile home parks, the mobile home lots made available to persons of low income shall be at least 50 percent of the total number of mobile home lots in the park. During the term of the agreement, the owner shall use its best efforts in good faith to maintain the dwelling units or mobile home lots required to be made available to persons of low income at rents affordable to persons of low income. The 20-year requirement under this subsection (19)(a) shall not apply when an authority finances the development by nonprofit corporations or governmental units of dwellings or mobile home lots intended for sale to persons of low and moderate income, and shall not apply to construction or other short-term financing provided to nonprofit corporations or governmental units when the financing has a repayment term of one year or less.

(b) In addition, if the development is owned by a for-profit entity, the dwelling units or mobile home lots required to be made available to persons of low income shall be rented to persons whose incomes do not exceed ((~~50~~)) 80 percent of the area median income, adjusted for household size, and shall have unit or lot rents that do not exceed 15 percent of area median income, adjusted for household size, unless rent subsidies are provided to make them affordable to persons of low income.

For purposes of this subsection (19)(b), if the development is owned directly or through a partnership by a governmental entity or a nonprofit organization, which nonprofit organization is itself not controlled by a for-profit entity or affiliated with any for-profit entity that a nonprofit organization itself does not control, it shall not be treated as being owned by a for-profit entity when the governmental entity or nonprofit organization exercises legal control of the ownership entity and in addition, (i) the dwelling units or mobile home lots required to be made available to persons of low income are rented to persons whose incomes do not exceed ((~~60~~)) 80 percent of the area median income,

adjusted for household size, and (ii) the development is subject to an agreement that transfers ownership to the governmental entity or nonprofit organization or extends an irrevocable right of first refusal to purchase the development under a formula for setting the acquisition price that is specified in the agreement.

(c) Commercial space in any building financed under this subsection that exceeds four stories in height shall not constitute more than 20 percent of the interior area of the building. Before financing any development under this subsection the authority shall make a written finding that financing is important for project feasibility or necessary to enable the authority to carry out its powers and purposes under this chapter.

(20) To contract with a public authority or corporation, created by a county, city, or town under RCW 35.21.730 through 35.21.755, to act as the developer for new housing projects or improvement of existing housing projects.

Passed by the House January 25, 2023.
Passed by the Senate April 10, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 134

[Engrossed Substitute House Bill 1073]
MEDICAL ASSISTANTS—VARIOUS PROVISIONS

AN ACT Relating to medical assistants; amending RCW 18.360.010, 18.360.040, and 18.360.050; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 18.360.010 and 2021 c 44 s 2 are each amended to read as follows:

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

(1) "Administer" means the retrieval of medication, and its application to a patient, as authorized in RCW 18.360.050.

(2) "Delegation" means direct authorization granted by a licensed health care practitioner to a medical assistant to perform the functions authorized in this chapter which fall within the scope of practice of the health care provider and the training and experience of the medical assistant.

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

(4) "Forensic phlebotomist" means a police officer, law enforcement officer, or employee of a correctional facility or detention facility, who is certified under this chapter and meets any additional training and proficiency standards of his or her employer to collect a venous blood sample for forensic testing pursuant to a search warrant, a waiver of the warrant requirement, or exigent circumstances.

(5) "Health care practitioner" means:

(a) A physician licensed under chapter 18.71 RCW;

(b) An osteopathic physician and surgeon licensed under chapter 18.57 RCW; or

(c) Acting within the scope of their respective licensure, a podiatric physician and surgeon licensed under chapter 18.22 RCW, a registered nurse or advanced registered nurse practitioner licensed under chapter 18.79 RCW, a

naturopath licensed under chapter 18.36A RCW, a physician assistant licensed under chapter 18.71A RCW, or an optometrist licensed under chapter 18.53 RCW.

(6) "Medical assistant-certified" means a person certified under RCW 18.360.040 who assists a health care practitioner with patient care, executes administrative and clinical procedures, and performs functions as provided in RCW 18.360.050 under the supervision of the health care practitioner.

(7) "Medical assistant-hemodialysis technician" means a person certified under RCW 18.360.040 who performs hemodialysis and other functions pursuant to RCW 18.360.050 under the supervision of a health care practitioner.

(8) "Medical assistant-phlebotomist" means a person certified under RCW 18.360.040 who performs capillary, venous, and arterial invasive procedures for blood withdrawal and other functions pursuant to RCW 18.360.050 under the supervision of a health care practitioner.

(9) "Medical assistant-registered" means a person registered under RCW 18.360.040 who, pursuant to an endorsement by a health care practitioner, clinic, or group practice, assists a health care practitioner with patient care, executes administrative and clinical procedures, and performs functions as provided in RCW 18.360.050 under the supervision of the health care practitioner.

(10) "Secretary" means the secretary of the department of health.

(11)(a) "Supervision" means supervision of procedures permitted pursuant to this chapter by a health care practitioner who is physically present and is immediately available in the facility, except as provided in (b) and (c) of this subsection.

(b) The health care practitioner does not need to be present during procedures to withdraw blood, <u>administer vaccines, or obtain specimens for or perform diagnostic testing,</u> but must be immediately available.

(c) During a telemedicine visit, supervision over a medical assistant assisting a health care practitioner with the telemedicine visit may be provided through interactive audio and video telemedicine technology.

Sec. 2. RCW 18.360.040 and 2017 c 336 s 17 are each amended to read as follows:

(1)(a) The secretary shall issue a certification as a medical assistant-certified to any person who has satisfactorily completed a medical assistant training program approved by the secretary, passed an examination approved by the secretary, and met any additional qualifications established under RCW 18.360.030.

(b) The secretary shall issue an interim certification to any person who has met all of the qualifications in (a) of this subsection, except for the passage of the examination. A person holding an interim permit possesses the full scope of practice of a medical assistant-certified. The interim permit expires upon passage of the examination <u>and issuance of a certification,</u> or after one year, whichever occurs first, and may not be renewed.

(2)<u>(a)</u> The secretary shall issue a certification as a medical assistant-hemodialysis technician to any person who meets the qualifications for a medical assistant-hemodialysis technician established under RCW 18.360.030.

<u>(b) In order to allow sufficient time for the processing of a medical assistant-hemodialysis technician certification, applicants for that credential who have completed their training program are allowed to continue to work at</u>

dialysis facilities, under the level of supervision required for the training program, for a period of up to 180 days after filing their application, to facilitate patient continuity of care.

(3)(a) The secretary shall issue a certification as a medical assistant-phlebotomist to any person who meets the qualifications for a medical assistant-phlebotomist established under RCW 18.360.030.

(b) In order to allow sufficient time for the processing of a medical assistant-phlebotomist certification, applicants for that credential who have completed their training program are allowed to work, under the level of supervision required for the training program, for a period of up to 180 days after filing their application, to facilitate access to services.

(4) The secretary shall issue a certification as a forensic phlebotomist to any person who meets the qualifications for a forensic phlebotomist established under RCW 18.360.030.

(5)(a) The secretary shall issue a registration as a medical assistant-registered to any person who has a current endorsement from a health care practitioner, clinic, or group practice.

(b) In order to be endorsed under this subsection (5), a person must:

(i) Be endorsed by a health care practitioner, clinic, or group practice that meets the qualifications established under RCW 18.360.030; and

(ii) Have a current attestation of his or her endorsement to perform specific medical tasks signed by a supervising health care practitioner filed with the department. A medical assistant-registered may only perform the medical tasks listed in his or her current attestation of endorsement.

(c) A registration based on an endorsement by a health care practitioner, clinic, or group practice is not transferable to another health care practitioner, clinic, or group practice.

(d) An applicant for registration as a medical assistant-registered who applies to the department within seven days of employment by the endorsing health care practitioner, clinic, or group practice may work as a medical assistant-registered for up to sixty days while the application is processed. The applicant must stop working on the sixtieth day of employment if the registration has not been granted for any reason.

(6) A certification issued under subsections (1) through (3) of this section is transferable between different practice settings. A certification under subsection (4) of this section is transferable between law enforcement agencies.

Sec. 3. RCW 18.360.050 and 2014 c 138 s 1 are each amended to read as follows:

(1) A medical assistant-certified may perform the following duties delegated by, and under the supervision of, a health care practitioner:

(a) Fundamental procedures:

(i) Wrapping items for autoclaving;

(ii) Procedures for sterilizing equipment and instruments;

(iii) Disposing of biohazardous materials; and

(iv) Practicing standard precautions.

(b) Clinical procedures:

(i) Performing aseptic procedures in a setting other than a hospital licensed under chapter 70.41 RCW;

(ii) Preparing of and assisting in sterile procedures in a setting other than a hospital under chapter 70.41 RCW;

(iii) Taking vital signs;

(iv) Preparing patients for examination;

(v) Capillary blood withdrawal, venipuncture, and intradermal, subcutaneous, and intramuscular injections; and

(vi) Observing and reporting patients' signs or symptoms.

(c) Specimen collection:

(i) Capillary puncture and venipuncture;

(ii) Obtaining specimens for microbiological testing; and

(iii) Instructing patients in proper technique to collect urine and fecal specimens.

(d) Diagnostic testing:

(i) Electrocardiography;

(ii) Respiratory testing; and

(iii)(A) Tests waived under the federal clinical laboratory improvement amendments program on July 1, 2013. The department shall periodically update the tests authorized under this subsection (1)(d) based on changes made by the federal clinical laboratory improvement amendments program; and

(B) Moderate complexity tests if the medical assistant-certified meets standards for personnel qualifications and responsibilities in compliance with federal regulation for nonwaived testing.

(e) Patient care:

(i) Telephone and in-person screening limited to intake and gathering of information without requiring the exercise of judgment based on clinical knowledge;

(ii) Obtaining vital signs;

(iii) Obtaining and recording patient history;

(iv) Preparing and maintaining examination and treatment areas;

(v) Preparing patients for, and assisting with, routine and specialty examinations, procedures, treatments, and minor office surgeries;

(vi) Maintaining medication and immunization records; and

(vii) Screening and following up on test results as directed by a health care practitioner.

(f)(i) Administering medications. A medical assistant-certified may only administer medications if the drugs are:

(A) Administered only by unit or single dosage, or by a dosage calculated and verified by a health care practitioner. For purposes of this section, a combination or multidose vaccine shall be considered a unit dose;

(B) Limited to legend drugs, vaccines, and Schedule III-V controlled substances as authorized by a health care practitioner under the scope of his or her license and consistent with rules adopted by the secretary under (f)(ii) of this subsection; and

(C) Administered pursuant to a written order from a health care practitioner.

(ii) A medical assistant-certified may not administer experimental drugs or chemotherapy agents. The secretary may, by rule, further limit the drugs that may be administered under this subsection (1)(f). The rules adopted under this subsection must limit the drugs based on risk, class, or route.

(g) Intravenous injections. A medical assistant-certified may establish intravenous lines for diagnostic or therapeutic purposes, without administering medications, under the supervision of a health care practitioner, and administer intravenous injections for diagnostic or therapeutic agents under the direct visual supervision of a health care practitioner if the medical assistant-certified meets minimum standards established by the secretary in rule. The minimum standards must be substantially similar to the qualifications for category D and F health care assistants as they exist on July 1, 2013.

(h) Urethral catheterization when appropriately trained.

(2) A medical assistant-hemodialysis technician may perform hemodialysis when delegated and supervised by a health care practitioner. A medical assistant-hemodialysis technician may also administer drugs and oxygen to a patient when delegated and supervised by a health care practitioner and pursuant to rules adopted by the secretary.

(3) A medical assistant-phlebotomist may perform:

(a) Capillary, venous, or arterial invasive procedures for blood withdrawal when delegated and supervised by a health care practitioner and pursuant to rules adopted by the secretary;

(b) Tests waived under the federal clinical laboratory improvement amendments program on July 1, 2013. The department shall periodically update the tests authorized under this section based on changes made by the federal clinical laboratory improvement amendments program;

(c) Moderate and high complexity tests if the medical assistant-phlebotomist meets standards for personnel qualifications and responsibilities in compliance with federal regulation for nonwaived testing; and

(d) Electrocardiograms.

(4) A medical assistant-registered may perform the following duties delegated by, and under the supervision of, a health care practitioner:

(a) Fundamental procedures:

(i) Wrapping items for autoclaving;

(ii) Procedures for sterilizing equipment and instruments;

(iii) Disposing of biohazardous materials; and

(iv) Practicing standard precautions.

(b) Clinical procedures:

(i) Preparing for sterile procedures;

(ii) Taking vital signs;

(iii) Preparing patients for examination; and

(iv) Observing and reporting patients' signs or symptoms.

(c) Specimen collection:

(i) Obtaining specimens for microbiological testing; and

(ii) Instructing patients in proper technique to collect urine and fecal specimens.

(d) Patient care:

(i) Telephone and in-person screening limited to intake and gathering of information without requiring the exercise of judgment based on clinical knowledge;

(ii) Obtaining vital signs;

(iii) Obtaining and recording patient history;

(iv) Preparing and maintaining examination and treatment areas;

(v) Preparing patients for, and assisting with, routine and specialty examinations, procedures, treatments, and minor office surgeries ((~~utilizing no more than local anesthetic~~)), including those with minimal sedation. The department may, by rule, prohibit duties authorized under this subsection (4)(d)(v) if performance of those duties by a medical assistant-registered would pose an unreasonable risk to patient safety;

(vi) Maintaining medication and immunization records; and

(vii) Screening and following up on test results as directed by a health care practitioner.

(e) Diagnostic testing and electrocardiography.

(f)(i) Tests waived under the federal clinical laboratory improvement amendments program on July 1, 2013. The department shall periodically update the tests authorized under subsection (1)(d) of this section based on changes made by the federal clinical laboratory improvement amendments program.

(ii) Moderate complexity tests if the medical assistant-registered meets standards for personnel qualifications and responsibilities in compliance with federal regulation for nonwaived testing.

((~~(f)~~)) (g) Administering eye drops, topical ointments, and vaccines, including combination or multidose vaccines.

((~~(g)~~)) (h) Urethral catheterization when appropriately trained.

(i) Administering medications:

(i) A medical assistant-registered may only administer medications if the drugs are:

(A) Administered only by unit or single dosage, or by a dosage calculated and verified by a health care practitioner. For purposes of this section, a combination or multidose vaccine shall be considered a unit dose;

(B) Limited to legend drugs, vaccines, and Schedule III through V controlled substances as authorized by a health care practitioner under the scope of his or her license and consistent with rules adopted by the secretary under (i)(ii) of this subsection; and

(C) Administered pursuant to a written order from a health care practitioner.

(ii) A medical assistant-registered may only administer medication for intramuscular injections. A medical assistant-registered may not administer experimental drugs or chemotherapy agents. The secretary may, by rule, further limit the drugs that may be administered under this subsection (4)(i). The rules adopted under this subsection must limit the drugs based on risk, class, or route.

(j) Intramuscular injections. A medical assistant-registered may administer intramuscular injections for diagnostic or therapeutic agents under the immediate supervision of a health care practitioner if the medical assistant-registered meets minimum standards established by the secretary in rule.

NEW SECTION. **Sec. 4.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House February 15, 2023.
Passed by the Senate April 6, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 135

[Substitute House Bill 1085]

PLASTIC POLLUTION REDUCTION—VARIOUS PROVISIONS

AN ACT Relating to reducing plastic pollution; amending RCW 43.21B.110 and 43.21B.300; adding a new section to chapter 19.27 RCW; adding new sections to chapter 70A.245 RCW; creating new sections; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that it is in the public interest to reduce unnecessary plastic waste and sources of plastic pollution in the environment, especially where less-polluting and more sustainable alternatives to plastic products and packaging are available. In this act, the legislature intends to reduce three such sources of plastic and associated pollution:

(1) Single-use plastic water bottles, which frequently end up as litter;

(2) The small plastic containers, wrappers, and packaging for personal health and beauty products, which are still often provided in lodging establishments but easily substituted by bulk dispensers and which are difficult to recycle in current systems; and

(3) Certain thin-walled or soft-shell floating extruded or expanded plastic foam structures, which frequently degrade in the environment and contribute to small and microplastic pollution of marine and shoreline environments.

NEW SECTION. **Sec. 2.** A new section is added to chapter 19.27 RCW to read as follows:

(1) In any construction subject to the requirements of this chapter in which a drinking fountain is required under the international building code as amended and adopted by the building code council, the rules adopted by the building code council must also require the provision of a bottle filling station, or a combined bottle filling station and drinking fountain for each drinking fountain that is required.

(2) The rules required under this section must take effect and be implemented by July 1, 2026, and may be periodically updated thereafter.

(3) For the purposes of this section, "bottle filling station" means a plumbing fixture connected to the potable water distribution system and sanitary drainage system that is designed and intended for filling personal use drinking water bottles or containers not less than 10 inches (254 millimeters) in height. A bottle filling station may be separate from or integral to a drinking fountain and may incorporate a water filter and a cooling system for chilling the drinking water.

NEW SECTION. **Sec. 3.** A new section is added to chapter 70A.245 RCW to read as follows:

(1) Beginning January 1, 2024, it is prohibited to sell, distribute, install, or arrange for the installation of in or into Washington state:

(a) Overwater structures containing expanded or extruded plastic foam that is not fully enclosed and contained in a shell made of plastic with a minimum thickness of 0.15 inches, concrete, aluminum, or steel; and

(b) Blocks or floats containing or comprised of expanded or extruded plastic foam that are not fully enclosed and contained in a shell made of plastic with a

minimum thickness of 0.15 inches, concrete, aluminum, or steel, and that are intended for use in or in conjunction with overwater structures.

(2)(a) The department may adopt rules to implement, administer, and enforce this section.

(b) A person in violation of this section is subject to a civil penalty for each violation in an amount not to exceed $10,000.

(c) Penalties collected under this section must be deposited in the model toxics control operating account created in RCW 70A.305.180.

(d) Penalties issued under this section are appealable to the pollution control hearings board established in chapter 43.21B RCW.

(3) For the purposes of this section, overwater structures do not include floating homes or floating on-water residences, as those terms are defined in RCW 90.58.270, but do include docks, floats, walkways, or other accessory overwater structures associated with floating homes or floating on-water residences.

(4) Nothing in this section applies to any dock sold, distributed, or installed prior to January 1, 2024.

NEW SECTION. **Sec. 4.** A new section is added to chapter 70A.245 RCW to read as follows:

(1)(a) A lodging establishment may not provide a personal health or beauty product in a small plastic personal health or beauty product container, a plastic wrapper, or any other single-use plastic packaging to a person staying in a lodging unit or within bathrooms shared by the public or guests. A lodging establishment may make products restricted under this subsection available to a person upon request.

(b) The requirements of (a) of this subsection apply beginning January 1, 2027, for lodging establishments with 50 or more lodging units, and beginning January 1, 2028, for lodging establishments with less than 50 lodging units.

(c)(i) Nothing in this subsection restricts the use of plastic refillable bulk health or beauty product dispensers.

(ii) Nothing in this subsection:

(A) Restricts the use of single-use health or beauty product containers, wrappers, or packaging that are not made with plastic; or

(B) Requires the use of refillable bulk health or beauty product dispensers.

(2)(a) The department must issue at least one notice of violation by certified mail to the owner or operator of a lodging establishment prior to assessing a penalty under (b) of this subsection.

(b) For the first and subsequent penalized violations by the owner or operator of a lodging establishment, the department may issue a civil penalty of up to $500 for each day the lodging establishment provides personal health or beauty products in violation of this section. The department may not issue penalties to a lodging establishment in excess of $2,000 annually.

(c) Penalties collected under this section must be deposited in the model toxics control operating account created in RCW 70A.305.180.

(d) A lodging establishment may appeal penalties assessed under this subsection to the pollution control hearings board created in chapter 43.21B RCW within 30 days of assessment.

(3)(a) The department may adopt rules to implement, administer, and enforce this section.

(b) The enforcement of this section must be primarily based on complaints filed with the department. The department must establish a forum for the filing of complaints, and any person may file complaints with the department using the forum. The forum established by the department may include a complaint form on the department's website, a telephone hotline, or a public outreach strategy relying upon electronic social media to receive complaints that allege violations. The department must provide a website with education and outreach resources that provides information about the requirements of this section to lodging establishments, consumers, and other interested individuals.

(4) On and after July 23, 2023, a city, town, or county may not enforce an ordinance, resolution, regulation, or rule relating to personal health or beauty products in single-use plastic bottles, wrappers, or packaging provided at lodging establishments.

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

(a)(i) "Lodging establishment" means an establishment that contains one or more sleeping room accommodations that are rented or otherwise provided to the public including, but not limited to, a hotel, motel, resort, bed and breakfast, inn, timeshare property, short-term rental, or vacation rental.

(ii) "Lodging establishment" does not include a hospital, nursing home, residential retirement community, prison, jail, homeless shelter, boarding school, worker housing, or long-term rental.

(b) "Lodging unit" means one self-contained unit of a lodging establishment including, but not limited to, self-contained units designated by number, letter, or some other method of identification.

(c) "Personal health or beauty product" means:

(i) Shampoo, hair conditioner, bath soap, body wash, or shower gel that is intended to serve the same function as body wash or soap, and that is intended to be applied to or used on the human body in the shower or bath;

(ii) Lotion;

(iii) Hand soap; and

(iv) Hand sanitizer.

(d) "Short-term rental" has the same meaning as defined in RCW 64.37.010.

(e) "Small plastic personal health or beauty product container" means a plastic bottle, tube, sachet, or other plastic container with less than a six-ounce capacity that is not intended to be reusable by the end user and that contains a personal health or beauty product.

NEW SECTION. **Sec. 5.** (1) By November 1, 2025, the department of fish and wildlife must conduct or contract for the completion of a study to assess the durability of air-filled and foam-filled docks, piers, ramps, and floats made of all materials. The study may not include floatation devices prohibited in section 3 of this act.

(2) The study should assess the following:

(a) Durability;

(b) The costs associated with the purchase, installation, replacement, maintenance, and disposal of products;

(c) Reuse or recycle potential;

(d) Buoyancy;

(e) Availability;

(f) Transport costs and requirements; and

(g) The degree to which flotation containers demonstrate the ability to securely contain materials within a protective shell.

(3) The results of the study must be submitted to the appropriate committees of the legislature and must include findings and recommendations.

(4) In carrying out the study required under subsection (1) of this section, the department of fish and wildlife or its contractor must solicit input from a diverse set of affected stakeholders, including ports, maritime associations, maritime businesses including installers of docks or piers, manufacturers of floats, state, federal, and local government entities, and environmental organizations.

Sec. 6. RCW 43.21B.110 and 2022 c 180 s 812 are each amended to read as follows:

(1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, local conservation districts, the air pollution control boards or authorities as established pursuant to chapter 70A.15 RCW, local health departments, the department of natural resources, the department of fish and wildlife, the parks and recreation commission, and authorized public entities described in chapter 79.100 RCW:

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070, 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080, sections 3 and 4 of this act, 70A.65.200, 70A.455.090, 76.09.170, 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070, 70A.245.020, 70A.65.200, 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

(c) Except as provided in RCW 90.03.210(2), the issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, the modification of the conditions or the terms of a waste disposal permit, or a decision to approve or deny an application for a solid waste permit exemption under RCW 70A.205.260.

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

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

(f) Decisions of the department regarding waste-derived fertilizer or micronutrient fertilizer under RCW 15.54.820, and decisions of the department regarding waste-derived soil amendments under RCW 70A.205.145.

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

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

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

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

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

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

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

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

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

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

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

(b) Hearings conducted by the department pursuant to RCW 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100, 70A.15.3110, and 90.44.180.

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

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

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

Sec. 7. RCW 43.21B.300 and 2022 c 180 s 813 are each amended to read as follows:

(1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160, 70A.205.280, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080, sections 3 and 4 of this act, 70A.65.200, 70A.455.090, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102 and chapter 70A.355 RCW shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the penalty from the department or the local air authority, describing the violation with reasonable particularity. For penalties issued by local air authorities, within 30 days after the notice is received, the person incurring the penalty may apply in writing to the authority for the remission or mitigation of the penalty. Upon receipt of the application, the authority may remit or mitigate the penalty upon whatever terms the

authority in its discretion deems proper. The authority may ascertain the facts regarding all such applications in such reasonable manner and under such rules as it may deem proper and shall remit or mitigate the penalty only upon a demonstration of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

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

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

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

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

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

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

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

Passed by the House February 28, 2023.

Passed by the Senate April 8, 2023.

Approved by the Governor April 20, 2023.

Filed in Office of Secretary of State April 21, 2023.

CHAPTER 136

[Second Substitute House Bill 1122]

WASHINGTON MANAGEMENT SERVICE—COLLECTIVE BARGAINING

AN ACT Relating to granting Washington management service employees the right to collectively bargain; amending RCW 41.06.022 and 41.80.005; adding a new section to chapter 41.80 RCW; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 41.06.022 and 2002 c 354 s 207 are each amended to read as follows:

For purposes of this chapter, "manager" means any employee who:

(1) Formulates statewide policy or directs the work of an agency or agency subdivision;

(2) Is responsible to administer one or more statewide policies or programs of an agency or agency subdivision;

(3) Manages, administers, and controls a local branch office of an agency or agency subdivision, including the physical, financial, or personnel resources;

(4) Has substantial responsibility in personnel administration, legislative relations, public information, or the preparation and administration of budgets; or

(5) Functionally is above the first level of supervision and exercises authority that is not merely routine or clerical in nature and requires the consistent use of independent judgment.

((~~No employee who is a member~~)) Members of the Washington management service may be included in a collective bargaining unit established under ((~~RCW 41.80.001 and 41.80.010 through 41.80.130~~)) chapter 41.80 RCW, except as provided in section 3 of this act.

Sec. 2. RCW 41.80.005 and 2022 c 71 s 10 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 any agency as defined in RCW 41.06.020 and covered by chapter 41.06 RCW. "Agency" also includes the assistant attorneys general of the attorney general's office and the administrative law judges of the office of administrative hearings, regardless of whether those employees are exempt under chapter 41.06 RCW. "Agency" does not include a comprehensive cancer center participating in a collaborative arrangement as defined in RCW 28B.10.930 that is operated in conformance with RCW 28B.10.930.

(2) "Collective bargaining" means the performance of the mutual obligation of the representatives of the employer and the exclusive bargaining representative to meet at reasonable times and to bargain in good faith in an effort to reach agreement with respect to the subjects of bargaining specified under RCW 41.80.020. The obligation to bargain does not compel either party to agree to a proposal or to make a concession, except as otherwise provided in this chapter.

(3) "Commission" means the public employment relations commission.

(4) "Confidential employee" means an employee who, in the regular course of his or her duties, assists in a confidential capacity persons who formulate, determine, and effectuate management policies with regard to labor relations or

who, in the regular course of his or her duties, has authorized access to information relating to the effectuation or review of the employer's collective bargaining policies, or who assists or aids a manager. "Confidential employee" also includes employees who assist assistant attorneys general who advise and represent managers or confidential employees in personnel or labor relations matters.

(5) "Director" means the director of the public employment relations commission.

(6) "Employee" means any employee, including employees whose work has ceased in connection with the pursuit of lawful activities protected by this chapter, covered by chapter 41.06 RCW. "Employee" includes assistant attorneys general of the office of the attorney general and administrative law judges of the office of administrative hearings, regardless of their exemption under chapter 41.06 RCW. "Employee" does not include:

(a) Employees covered for collective bargaining by chapter 41.56 RCW;

(b) Confidential employees;

(c) Members of the Washington management service excluded from collective bargaining under section 3 of this act;

(d) Internal auditors in any agency; or

(e) Any employee of the commission, the office of financial management, or the office of risk management within the department of enterprise services.

(7) "Employee organization" means any organization, union, or association in which employees participate and that exists for the purpose, in whole or in part, of collective bargaining with employers.

(8) "Employer" means the state of Washington.

(9) "Exclusive bargaining representative" means any employee organization that has been certified under this chapter as the representative of the employees in an appropriate bargaining unit.

(10) "Institutions of higher education" means the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, and the various state community colleges.

(11) "Labor dispute" means any controversy concerning terms, tenure, or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment with respect to the subjects of bargaining provided in this chapter, regardless of whether the disputants stand in the proximate relation of employer and employee.

(12) "Manager" means "manager" as defined in RCW 41.06.022.

(13) "Supervisor" means an employee who has authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, direct, reward, or discipline employees, or to adjust employee grievances, or effectively to recommend such action, if the exercise of the authority is not of a merely routine nature but requires the consistent exercise of individual judgment. ((~~However, no employee who is a member of the Washington management service may be included in a collective bargaining unit established under this section.~~))

(14) "Unfair labor practice" means any unfair labor practice listed in RCW 41.80.110.

(15) "Uniformed personnel" means duly sworn police officers employed as members of a police force established pursuant to RCW 28B.10.550.

NEW SECTION. **Sec. 3.** A new section is added to chapter 41.80 RCW to read as follows:

(1)(a) Washington management service members who are not otherwise excluded from bargaining under (b) of this subsection are granted the right to collectively bargain.

(b) The following Washington management service members are excluded from bargaining:

(i) Employees in positions within Washington management salary band 3, salary band 4, and medical band, as defined by the office of financial management;

(ii) Human resource managers;

(iii) Budget managers;

(iv) Risk and litigation managers;

(v) Employees in positions whose official primary duties include conducting employee-related investigations including, but not limited to, a possible unfair practice under chapter 49.60 RCW, a possible violation of other federal, state, or local laws or an employing agency's internal policies, and employee misconduct or performance;

(vi) Employees in positions that report directly to an assistant secretary, deputy secretary, agency director, or equivalent, of an agency; and

(vii) Employees in positions excluded under RCW 41.80.005(6).

(c) Bargaining over wages will be limited to Washington management service salary band levels, not individual Washington management service classifications or positions.

(2)(a) Except as provided in (b) of this subsection, the only units that may be designated for the purpose of collective bargaining under this chapter are a supervisory or nonsupervisory unit, as determined by the commission, of all salary band 1 and salary band 2 Washington management service members within an agency that are not otherwise excluded from bargaining under this section.

(b) Subject to the public employment relations commission's review and to avoid excessive fragmentation, more than two bargaining units that otherwise meet the parameters in (a) of this subsection may be designated within a major administrative division of the following agencies: The department of corrections, the department of social and health services, the department of children, youth, and families, the department of transportation, the department of health, the state health care authority, the department of natural resources, the department of enterprise services, the department of ecology, the employment security department, and the department of fish and wildlife.

(3) The governor or the governor's designee and an exclusive bargaining representative shall negotiate for eligible Washington management service members within the bargaining agreements under RCW 41.80.010(2)(a)(i).

(4) No collective bargaining agreement entered into under this section with an exclusive bargaining representative of members of the Washington management service may take effect prior to July 1, 2025.

NEW SECTION. **Sec. 4.** This act takes effect January 1, 2024.

Passed by the House March 4, 2023.
Passed by the Senate April 10, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 137

[Substitute House Bill 1171]

MOTORCYCLE SAFETY EDUCATION ADVISORY BOARD—MEMBERSHIP

AN ACT Relating to modifying the motorcycle safety education advisory board; and amending RCW 46.20.520.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 46.20.520 and 1998 c 245 s 89 are each amended to read as follows:

(1) The director of licensing shall use moneys designated for the motorcycle safety education account of the highway safety fund to implement by July 1, 1983, a voluntary motorcycle operator training and education program. The director may contract with public and private entities to implement this program.

(2)(a) There is created a motorcycle safety education advisory board to assist the director of licensing in the development of a motorcycle operator training education program. The board shall monitor this program following implementation and report to the director of licensing as necessary with recommendations including, but not limited to, administration, application, and substance of the motorcycle operator training and education program.

(b) The board shall consist of ((~~five~~)) seven members appointed by the director of licensing. Three members of the board((~~, one of whom shall be appointed chairperson,~~)) shall be active motorcycle riders or members of nonprofit motorcycle organizations which actively support and promote motorcycle safety education. Two members shall represent motorcycle safety instructors. One member shall be a currently employed Washington state patrol motorcycle officer with at least five years experience and at least one year cumulative experience as a motorcycle officer. One member shall be a member of the public.

(c) The term of appointment shall be two years and shall extend until their successors are appointed. The terms of appointment shall be staggered so that either one or two members are appointed in every even-numbered year.

(d) All members must be specially endorsed to drive either a two-wheeled or a three-wheeled motorcycle or have been specially endorsed by the director to drive such motorcycles.

(e) To the extent practicable, the director should strive to appoint members who reflect diversity in race, ethnicity, and gender, and who reside in different areas of the state, with at least two members who reside east of the crest of the Cascade mountain range.

(f) The board shall meet at the call of the director, but not less than two times annually and not less than five times during its term of appointment, and shall receive no compensation for services but shall be reimbursed for travel expenses while engaged in business of the board in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(3) The seven members of the board shall select a chair from the members who represent the active motorcycle riders, members of nonprofit motorcycle organizations, or motorcycle safety instructors.

(4) The priorities of the program shall be in the following order of priority:

(a) Public awareness of motorcycle safety.

(b) Motorcycle safety education programs conducted by public and private entities.

(c) Classroom and on-cycle training.

(d) Improved motorcycle operator testing.

Passed by the House March 3, 2023.
Passed by the Senate April 10, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 138

[Second Substitute House Bill 1204]

FAMILY CONNECTIONS PROGRAM—PERMANENT

AN ACT Relating to implementing the family connections program; amending RCW 74.13.715; creating a new section; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 74.13.715 and 2021 c 334 s 990 are each amended to read as follows:

(1) ((~~Beginning September 1, 2020~~)) Within available funding, the department shall contract with an external organization or organizations with experience serving youth or families receiving out-of-home care services to implement and operate the family connections program, which facilitates interaction between a parent of a child found to be dependent pursuant to chapter 13.34 RCW and in out-of-home care and the individual with whom the child is placed.

(2) The external organization or organizations contracted to implement and operate the family connections program shall implement and operate the family connections program in one or more locations west of the crest of the Cascade mountains, and one or more locations east of the crest of the Cascade mountains.

(3) Families may be referred to the family connections program in any manner determined to be appropriate by the family connections program, including but not limited to a referral by ((~~a~~)):

(a) A caseworker((~~, an~~));

(b) An attorney((~~, a~~));

(c) A guardian ad litem as defined in RCW 13.34.030((~~, a~~));

(d) A parent ally((~~, an~~));

(e) An office of public defense social worker((~~, or the~~));

(f) The court; or

(g) The parent or caregiver.

(4) After receiving a referral, the family connections program shall determine whether an in-person meeting between a parent of a child found to be dependent pursuant to chapter 13.34 RCW and in out-of-home care and the individual with whom the child is placed is appropriate. If the family

connections program determines that such a meeting is appropriate, the family connections program shall then determine whether:

(a) The parent of a child found to be dependent pursuant to chapter 13.34 RCW and in out-of-home care and the individual with whom the child is placed are willing to participate in an in-person meeting; and

(b) Safety concerns exist such that an in-person meeting should not occur.

(5) If the family connections program determines that an in-person meeting should occur following the analysis required by subsection (4) of this section, the family connections program shall provide a referral to the family connections program team. The family connections program team shall include a parent ally and an experienced caregiver. After receiving a referral, the family connections program team shall:

(a) Ensure that the parent ally contact the parent to prepare for an in-person meeting between the parent and caregiver;

(b) Ensure that the experienced caregiver contact the caregiver to prepare for an in-person meeting between the parent and caregiver;

(c) Convene an in-person meeting between the parent and caregiver; and

(d) Provide ongoing support to the parent and caregiver following the in-person meeting.

(6) If the family connections program determines that an in-person meeting should not occur following the analysis required under subsection (4) of this section, the family connections program team shall facilitate the exchange of information between the parent and caregiver in an appropriate manner that does not include an in-person meeting. The format of this exchange of information may include written messages, phone calls, or videoconferencing. The family connections program shall routinely reevaluate whether an in-person meeting should occur using the analysis required under subsection (4) of this section.

(7) The department shall collect data and measure outcomes for families engaging in the family connections program. By September 1, 2021, and in compliance with RCW 43.01.036, the department shall submit a report to the relevant committees of the legislature that details:

(a) Data collected for the family connections program;

(b) Outcomes for families engaging in the family connections program; and

(c) The department's plan on how to expand the family connections program statewide.

(8) The definitions in this subsection apply throughout this section:

(a) "Experienced caregiver" means:

(i) An individual who is or has received a foster family home license pursuant to chapter 74.15 RCW or an equivalent license from another state; or

(ii) An individual who cared for a child who was removed from his or her parent pursuant to chapter 13.34 RCW and who has a kin relationship to that child pursuant to RCW 74.13.600.

(b) "Parent ally" has the same meaning as provided in RCW 2.70.060.

((~~(9) This section expires June 30, 2023.~~))

NEW SECTION. **Sec. 2.** 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 June 30, 2023.

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

Passed by the House February 27, 2023.
Passed by the Senate April 10, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 139

[House Bill 1237]

VEHICLE IDENTIFICATION NUMBER INSPECTION FEES—DISTRIBUTION

AN ACT Relating to distribution of the vehicle identification number inspection fee; amending RCW 46.17.130 and 46.68.410; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 46.17.130 and 2010 c 161 s 514 are each amended to read as follows:

Before accepting an application for a certificate of title, the department, county auditor or other agent, or subagent appointed by the director shall require an applicant to pay a ((~~sixty-five dollar~~)) $65 inspection fee if an inspection of the vehicle was completed by the Washington state patrol. The inspection fee must be distributed under RCW ((~~46.68.020~~)) 46.68.410.

Sec. 2. RCW 46.68.410 and 2022 c 186 s 706 are each amended to read as follows:

(((~~(1)~~))) The vehicle identification number inspection fee collected under RCW 46.17.130 must be distributed ((~~as follows:~~

~~(a) $15~~)) to the state patrol highway account created in RCW 46.68.030((~~; and~~

~~(b) $50 to the motor vehicle fund created in RCW 46.68.070.~~

~~(2) During the 2021-2023 fiscal biennium, the entire vehicle identification number inspection fee collected under RCW 46.17.130 must be distributed to the state patrol highway account created in RCW 46.68.030~~)).

NEW SECTION. **Sec. 3.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2023.

Passed by the House February 2, 2023.
Passed by the Senate April 10, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 140

[Engrossed Substitute House Bill 1251]

PUBLIC WATER SYSTEMS—FLUORIDATION NOTICES

AN ACT Relating to water systems' notice to customers of public health considerations; and adding a new section to chapter 70A.125 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 70A.125 RCW to read as follows:

A public water system that considers commencing or discontinuing fluoridation of its water supply on a continuing basis shall notify its customers and the department of its intentions at least 90 days prior to a vote or decision on the matter. The water system shall notify its customers via radio, television, newspaper, regular mail, electronic means, or any notification methods which effectively notify customers at least 90 days prior to any meeting at which the vote or decision will occur. Any public water system that violates the notification requirements of this subsection shall return the fluoridation of its water supply to its previous level until proper notification is provided under the provisions of this section.

Passed by the House February 9, 2023.
Passed by the Senate April 10, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 141

[Substitute House Bill 1255]

NURSING—SUBSTANCE USE DISORDER MONITORING PROGRAM PARTICIPATION

AN ACT Relating to reducing stigma and incentivizing health care professionals licensed by the Washington state nursing care quality assurance commission to participate in a substance use disorder monitoring and treatment program; and adding a new section to chapter 18.79 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 18.79 RCW to read as follows:

(1) The department or commission may not post information regarding an enforcement action taken by the commission against a person licensed under this chapter, including any supporting documents or indication that the enforcement action was taken, on any public website when the following conditions are met:

(a) In connection with the enforcement action, the person has been required by an order or agreement with the commission to contact a commission-approved substance use disorder monitoring program authorized by RCW 18.130.175, and if recommended by the program, to contract with and participate in the program;

(b) The commission has found that the person has substantially complied with the terms of the order or agreement; and

(c) If the website is a third-party website, the department or commission has the ability to prevent information regarding the enforcement action from being posted on the public website.

(2) Subject to the availability of amounts appropriated for this specific purpose, the commission shall establish a stipend program to defray the out-of-pocket expenses incurred in connection with participation in the commission's approved substance use disorder monitoring program authorized by RCW 18.130.175.

(3) To be eligible for the stipend program, a person must:

(a) Hold an active, inactive, or suspended license issued pursuant to this chapter;

(b) Submit an application on forms provided by the commission;

(c) Be actively participating in the commission's approved substance use disorder monitoring program or have completed the commission's approved substance use disorder monitoring program within six months of submission of an application for the stipend program; and

(d) Have a demonstrated need for financial assistance with the expenses incurred in connection with participation in the commission's approved substance use disorder monitoring program.

(4) A person is not eligible for the stipend program if they have previously applied for and participated in the stipend program.

(5) The commission may defray up to 80 percent of each out-of-pocket expense deemed eligible for defrayment under this section.

(6) Out-of-pocket expenses eligible for defrayment under this section include the costs of substance use evaluation, treatment, and other ancillary services, including drug testing, participation in professional peer support groups, and any other expenses deemed appropriate by the commission.

(7) A person participating in the stipend program established in this section shall document their out-of-pocket expenses in a manner specified by the commission.

(8) The commission must provide updated information on its website regarding the total number of individuals that have participated in the stipend program, the average total amount of eligible expenses defrayed for each participant, the aggregated total amount of expenses that have been defrayed for all individuals that have participated in the stipend program, and the amount of funds available for the stipend program.

(9) The commission shall establish the stipend program no later than July 1, 2024.

(10) The commission may adopt rules necessary to implement this section.

Passed by the House March 6, 2023.
Passed by the Senate April 6, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 142

[House Bill 1259]

OFFICE OF THE SECRETARY OF STATE—CHIEF OF STAFF SIGNING AUTHORITY

AN ACT Relating to updating the executive team of the office of the secretary of state by adding signing authority to the chief of staff position; amending RCW 43.07.020; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 43.07.020 and 2009 c 549 s 5025 are each amended to read as follows:

The secretary of state may have one assistant secretary of state ((~~and~~)), one deputy secretary of state, and one chief of staff each of whom shall have signing authority and be appointed by ((~~him or her~~)) the secretary in writing, and

continue ((~~during his or her~~)) serving at the pleasure of the secretary. The assistant secretary of state ((~~and~~)), deputy secretary of state, and chief of staff shall have the power to perform any act or duty relating to the secretary of state's office, that the secretary of state has, and the secretary of state shall be responsible for the acts of said assistant ((~~and~~)), deputy, and chief of staff.

***NEW SECTION.** Sec. 2. 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.*

***Sec. 2 was vetoed. See message at end of chapter.**

Passed by the House February 8, 2023.

Passed by the Senate April 5, 2023.

Approved by the Governor April 20, 2023, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 21, 2023.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 2, House Bill No. 1259 entitled:

"AN ACT Relating to updating the executive team of the office of the secretary of state by adding signing authority to the chief of staff position."

This bill authorizes the Secretary of State's chief of staff to have signing authority and the power to act on behalf of the Office of the Secretary of State, expanding the number of specified senior staff who have this authority from two to three. Section 2 is an emergency clause, making this bill effective immediately. However, in light of the existing staff who have signing authority for the Office, this bill is not necessary for the immediate preservation of the public peace, health, or safety, or support of state government.

For these reasons I have vetoed Section 2 of House Bill No. 1259.

With the exception of Section 2, House Bill No. 1259 is approved."

CHAPTER 143

[Substitute House Bill 1275]

ATHLETIC TRAINERS—VARIOUS PROVISIONS

AN ACT Relating to athletic trainers; and amending RCW 18.250.010 and 18.250.110.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 18.250.010 and 2020 c 80 s 25 are each amended to read as follows:

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

(1) "Athlete" means a person who participates in exercise, recreation, activities, sport, or games requiring physical strength, range-of-motion, flexibility, body awareness and control, speed, stamina, or agility, and the exercise, recreation, activities, sports, or games are of a type conducted for the benefits of health and wellness in association with an educational institution or professional, amateur, ((~~or~~)) recreational sports club or organization, hospital, or industrial-based organization.

(2) "Athletic injury" means an injury or condition sustained by an athlete that affects the person's participation or performance in exercise, recreation,

activities, sport, or games and the injury or condition is within the professional preparation and education of an athletic trainer.

(3) "Athletic trainer" means a ((~~person~~)) health care provider who is licensed under this chapter. An athletic trainer can practice athletic training through the consultation, referral, or guidelines of a licensed health care provider as defined in subsection (7) of this section working within their scope of practice.

(4)(a) "Athletic training" means the application of the following principles and methods as provided by a licensed athletic trainer:

(i) Risk management and prevention of athletic injuries through preactivity screening and evaluation, educational programs, physical conditioning and reconditioning programs, application of commercial products, use of protective equipment, promotion of healthy behaviors, and reduction of environmental risks;

(ii) Recognition, evaluation, and assessment of athletic injuries by obtaining a history of the athletic injury, inspection and palpation of the injured part and associated structures, and performance of specific testing techniques related to stability and function to determine the extent of an injury;

(iii) Immediate care of athletic injuries, including emergency medical situations through the application of first-aid and emergency procedures and techniques for nonlife-threatening or life-threatening athletic injuries;

(iv) Treatment, rehabilitation, and reconditioning of athletic injuries through the application of physical agents and modalities, therapeutic activities and exercise, standard reassessment techniques and procedures, commercial products, and educational programs, in accordance with guidelines established with a licensed health care provider as provided in RCW 18.250.070;

(v) Treatment, rehabilitation, and reconditioning of work-related injuries through the application of physical agents and modalities, therapeutic activities and exercise, standard reassessment techniques and procedures, commercial products, and educational programs, under the direct supervision of and in accordance with a plan of care for an individual worker established by a provider authorized to provide physical medicine and rehabilitation services for injured workers; and

(vi) Referral of an athlete to an appropriately licensed health care provider if the athletic injury requires further definitive care or the injury or condition is outside an athletic trainer's scope of practice, in accordance with RCW 18.250.070.

(b) "Athletic training" does not include:

(i) The use of spinal adjustment or manipulative mobilization of the spine and its immediate articulations;

(ii) Orthotic or prosthetic services with the exception of evaluation, measurement, fitting, and adjustment of temporary, prefabricated or direct-formed orthosis as defined in chapter 18.200 RCW;

(iii) The practice of occupational therapy as defined in chapter 18.59 RCW;

(iv) The practice of acupuncture and Eastern medicine as defined in chapter 18.06 RCW;

(v) Any medical diagnosis; and

(vi) Prescribing legend drugs or controlled substances, or surgery.

(5) "Committee" means the athletic training advisory committee.

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

(7) "Licensed health care provider" means a physician, physician assistant, osteopathic physician, advanced registered nurse practitioner, naturopath, physical therapist, chiropractor, dentist, massage therapist, acupuncturist, occupational therapist, or podiatric physician and surgeon.

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

Sec. 2. RCW 18.250.110 and 2019 c 358 s 3 are each amended to read as follows:

(1) An athletic trainer licensed under this chapter ((~~may~~)):

(a) May purchase, store, and administer over-the-counter ((~~topical~~)) medications ((~~such as hydrocortisone, fluocinonide, topical anesthetics, silver sulfadiazine, lidocaine, magnesium sulfate, zinc oxide, and other similar medications~~)), as prescribed by an authorized health care practitioner for the practice of athletic training;

(b) Who has completed accredited training programs on pharmacology and medication administration may purchase, store, and administer medications in accordance with the programs, as prescribed by an authorized health care practitioner for the practice of athletic training.

(((~~(a)~~))) (2) An athletic trainer may not administer any medications to a student in a public school as defined in RCW 28A.150.010 or private schools governed by chapter 28A.195 RCW.

(((~~(b)~~))) (3) An athletic trainer may administer medications consistent with this section to a minor in a setting other than a school, if the minor's parent or guardian provides written consent.

(((~~(2)~~))) (4) An athletic trainer licensed under this chapter who has completed an anaphylaxis training program in accordance with RCW 70.54.440 may administer an epinephrine autoinjector to any individual who the athletic trainer believes in good faith is experiencing anaphylaxis as authorized by RCW 70.54.440.

Passed by the House March 7, 2023.
Passed by the Senate April 6, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 144

[Engrossed Substitute House Bill 1311]

CREDIT SERVICES ORGANIZATIONS—VARIOUS PROVISIONS

AN ACT Relating to credit repair services performed by a credit services organization; amending RCW 19.134.010, 19.134.020, 19.134.040, 19.134.050, 19.134.060, 19.134.070, and 19.134.080; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 19.134.010 and 1989 c 303 s 1 are each amended to read as follows:

As used in this chapter:

(1) ((~~"Buyer" means any individual who is solicited to purchase or who purchases the services of a credit services organization.~~

(~~2~~)(~~a~~))) "Collection agency" has the same meaning as in RCW 19.16.100.

(2) "Communication" means the conveyance of any information regarding a debt, credit record, credit history, or credit rating, including submitting a dispute or requesting information, directly or indirectly, to any person by any means or through any medium.

(3) "Consumer" means any natural person who is solicited to purchase or who purchases the services of a credit services organization.

(4) "Consumer reporting agency" has the same meaning as in RCW 19.182.010.

(5) "Creditor" has the same meaning as in RCW 62A.1-201.

(6)(a) "Credit services organization" means any person who((~~, with respect to the extension of credit by others,~~)) sells, provides, performs, or represents that ((~~he or she~~)) the person can or will sell, provide, or perform, in return for the payment of money or other valuable consideration any of the following services:

(i) Improving, saving, or preserving a ((~~buyer's~~)) consumer's credit record, history, or rating;

(ii) Obtaining an extension of credit for a ((~~buyer~~)) consumer;

(iii) Stopping, preventing, or delaying the foreclosure of a deed of trust, mortgage, or other security agreement; or

(iv) Providing advice or assistance to a ((~~buyer~~)) consumer with regard to either (a)(i), (((~~a~~)))(ii), or (((~~a~~)))(iii) of this subsection.

(b) "Credit services organization" does not include:

(i) Any person authorized to make loans or extensions of credit under the laws of this state or the United States who is subject to regulation and supervision by this state or the United States or a lender approved by the United States secretary of housing and urban development for participation in any mortgage insurance program under the national housing act;

(ii) Any bank, savings bank, or savings and loan institution whose deposits or accounts are eligible for insurance by the federal deposit insurance corporation or the federal savings and loan insurance corporation, or a subsidiary of such bank, savings bank, or savings and loan institution;

(iii) Any credit union, federal credit union, or out-of-state credit union doing business in this state under chapter 31.12 RCW;

(iv) Any nonprofit organization exempt from taxation under section 501(c)(3) of the internal revenue code;

(v) Any person licensed as a real estate broker by this state if the person is acting within the course and scope of that license;

(vi) Any person licensed as a collection agency pursuant to chapter 19.16 RCW if acting within the course and scope of that license;

(vii) Any person licensed to practice law in this state if the person renders services within the course and scope of his or her practice as an attorney: PROVIDED, That the principal purpose of the attorney's practice is not to regularly provide the services described in (a)(i) and (ii) of this subsection, nor regularly provide advice or assistance described in (a)(iv) of this subsection as it pertains to (a)(i) and (ii) of this subsection, and that the attorney is not providing those services in connection with a qualified nonprofit legal aid provider;

(viii) Any broker-dealer registered with the securities and exchange commission or the commodity futures trading commission if the broker-dealer is acting within the course and scope of that regulation;

(ix) Any consumer reporting agency as defined in the federal fair credit reporting act, 15 U.S.C. Secs. 1681 through 1681t; or

(x) Any mortgage broker as defined in RCW 19.146.010 if acting within the course and scope of that definition.

(((~~(3)~~))) (7) "Extension of credit" means the right to defer payment of debt or to incur debt and defer its payment offered or granted primarily for personal, family, or household purposes.

(8) "Person" shall include, where applicable, natural persons, corporations and other limited liability companies and associations, trusts, unincorporated associations, and partnerships.

(9) "Regulatory entity" means any city, state, or federal agency, department or entity that has the authority to regulate a consumer reporting agency, creditor, or collection agency, or the authority to assist a consumer with submitting, processing, or resolving a complaint, inquiry, or information request concerning a consumer reporting agency, creditor, or collection agency.

Sec. 2. RCW 19.134.020 and 1989 c 303 s 2 are each amended to read as follows:

(1) A credit services organization, its salespersons, agents, and representatives, and independent contractors who sell or attempt to sell the services of a credit services organization may not do any of the following:

(((~~(1)~~))) (a) Charge or receive any money or other valuable consideration prior to full and complete performance of the services the credit services organization has agreed to perform for the ((~~buyer~~)) consumer, unless the credit services organization has obtained a surety bond of ((~~ten thousand dollars~~)) $10,000 issued by a surety company admitted to do business in this state and established a trust account at a federally insured bank or savings and loan association located in this state. The surety bond shall run to the state of Washington and the ((~~buyers~~)) consumers. The surety bond shall be issued on the condition that the principal comply with all provisions of this chapter and fully perform on all contracts entered into with ((~~buyers~~)) consumers. The surety bond shall be continuous until canceled and shall remain in full force and unimpaired at all times to comply with this section. The surety's liability for all claims in the aggregate against the continuous bond shall not exceed the penal sum of the bond. An action on the bond may be brought by the state or by any ((~~buyer~~)) consumer by filing a complaint in a court of competent jurisdiction, including small claims court, within one year of cancellation of the surety bond. A complaint may be mailed by registered or certified mail, return receipt requested, to the surety and shall constitute good and sufficient service on the surety;

(((~~(2)~~))) (b) Charge or receive any money or other valuable consideration solely for referral of the ((~~buyer~~)) consumer to a retail seller who will or may extend credit to the ((~~buyer~~)) consumer if the credit that is or will be extended to the ((~~buyer~~)) consumer is upon substantially the same terms as those available to the general public;

(((~~(3)~~))) (c) Fail to provide a monthly statement to the consumer detailing the services performed, including, if applicable, an accounting of any funds paid by a consumer and held or disbursed on the consumer's behalf and copies of any letters sent by the credit services organization on the consumer's behalf;

(d) Make or counsel or advise any ((~~buyer~~)) consumer to make any statement that is untrue or misleading or that should be known by the exercise of reasonable care to be untrue or misleading, to a ((~~credit~~)) consumer reporting agency ((~~or~~)), creditor, collection agency, or regulatory entity, including submitting, or counseling, or advising a consumer to submit, a dispute without a good faith belief in the accuracy of the dispute ((~~to any person who has extended credit to a buyer or to whom a buyer is applying for an extension of credit with respect to a buyer's creditworthiness, credit standing, or credit capacity~~));

(((~~(4)~~))) (e) Make or use any untrue or misleading representations in the offer or sale of the services of a credit services organization or engage, directly or indirectly, in any act, practice, or course of business that operates or would operate as fraud or deception upon any person in connection with the offer or sale of the services of a credit services organization;

(f) Send any communication to a consumer reporting agency, creditor, collection agency, or regulatory entity without the prior written authorization of the consumer. A relevant authorization in the agreement or contract between a consumer and a credit services organization is sufficient for the purpose of this subsection;

(g) Fail to make a written communication sent on behalf of a consumer to any consumer reporting agency, creditor, collection agency, or regulatory entity, or legal counsel for any of the foregoing available to the consumer; or

(h) Fail to provide along with its first written communication to a consumer reporting agency, creditor, debt collector, or regulatory entity information sufficient to permit the consumer reporting agency, creditor, debt collector, or regulatory entity to investigate the account or accounts that are the subject of the written communication.

(2) Seeking to obtain, or the obtaining of, a consumer's credit report and the performance of other services necessary to determine the needs of a consumer for the reinvestigation of any accounts shall not constitute services of a credit services organization for which a contract is required pursuant to RCW 19.134.060 if that activity is undertaken with the consumer's prior written, electronic, or recorded oral consent.

NEW SECTION. **Sec. 3.** (1) Unless otherwise required by law, a consumer reporting agency, creditor, or collection agency that knows a consumer is represented by a credit services organization and also has knowledge of, or can readily ascertain, the credit services organization's name and address shall communicate with the credit services organization unless either of the following circumstances apply:

(a) The credit services organization fails to respond within 30 days to a communication from a consumer reporting agency, creditor, or collection agency; or

(b) The consumer expressly directs the consumer reporting agency, creditor, or collection agency not to communicate with the credit services organization.

(2) Notwithstanding subsection (1) of this section, a consumer reporting agency, creditor, or collection agency shall not be required to communicate with a credit services organization concerning an account that is subject to a dispute if any of the following apply:

(a) The account subject to the dispute has been paid, settled, or otherwise resolved and has been reported as paid, settled, or otherwise resolved on the consumer's credit report;

(b) The account subject to the dispute has been removed from the consumer's credit report;

(c) The debt collector has provided to the credit services organization or to the consumer the verification information or documentation described in 15 U.S.C. Sec. 1692(g)(b) regarding the account subject to dispute;

(d) The debt collector is a debt buyer as defined in RCW 19.16.100 and has provided to the credit services organization or to the consumer the information or documentation described in RCW 19.16.260(2) (a) and (b) regarding the account subject to the dispute;

(e) The consumer reporting agency, creditor, or collection agency reasonably determines that the dispute is frivolous or irrelevant pursuant to 15 U.S.C. Secs. 1681(i)(3) or 1681s-2(a)(1)(f).

NEW SECTION. **Sec. 4.** To protect against fraud and identity theft, when a credit services organization sends a written communication by facsimile, electronic mail, United States mail, overnight courier, or other means that contains personal information of a consumer, the credit services organization shall redact the personal information to include only the last four digits of the social security number, taxpayer identification number, or state identification number, the last four digits of the financial account number, credit card number, or debit card number, or the month and year of the consumer's date of birth, unless the inclusion of the full number or date is otherwise required by law, or is legally permissible and required to achieve the desired objective. Redacting information pursuant to this section shall not be considered a violation of RCW 19.134.020(1)(h).

Sec. 5. RCW 19.134.040 and 1986 c 218 s 5 are each amended to read as follows:

Before the execution of a contract or agreement between the ((~~buyer~~)) consumer and a credit services organization or before the receipt by the credit services organization of any money or other valuable consideration, whichever occurs first, the credit services organization shall provide the ((~~buyer~~)) consumer with a statement in writing, containing all the information required by RCW 19.134.050. The credit services organization shall maintain on file for a period of ((~~two years an exact copy of the statement, personally signed by the buyer, acknowledging receipt of a~~)) four years following the completion or termination of the credit services organization agreement with the consumer an exact copy of the statement.

Sec. 6. RCW 19.134.050 and 1986 c 218 s 6 are each amended to read as follows:

The information statement required under RCW 19.134.040 shall include all of the following:

(1)(a) A conspicuous statement in boldface 10-point type at the top of the statement that clearly outlines to a consumer how the credit services organization will act on behalf of the consumer, including that with explicit approval, the credit services organization may use the consumer's signature;

(b) A complete and accurate statement of the ((~~buyer's~~)) consumer's right to review any file on the ((~~buyer~~)) consumer maintained by any consumer reporting agency, as provided under the federal Fair Credit Reporting Act, 15 U.S.C. Secs. 1681 through 1681t;

(((~~(b)~~))) (c) A statement that the ((~~buyer~~)) consumer may review his or her consumer reporting agency file at no charge if a request is made to the consumer ((~~credit~~)) reporting agency within ((~~thirty~~)) 30 days after receiving notice that credit has been denied; ((~~and~~

~~(c)~~))) (d) The approximate price the ((~~buyer~~)) consumer will be charged by the consumer reporting agency to review his or her consumer reporting agency file; and

(e) The following notice:

"If you have a complaint about the services provided by this credit services organization or the fees charged by this credit services organization, you may submit that complaint to the Washington state Attorney General's Office electronically at https://www.atg.wa.gov/file-complaint or by mail to Attn: ....., 800 5th Avenue, Suite 2000, Seattle, WA 98104-3188."

The information statement shall be printed in at least 10-point boldface type and shall include the following statement:

"CONSUMER CREDIT FILE RIGHTS UNDER STATE AND FEDERAL LAW

You have a right to obtain a free copy of your credit report from a consumer reporting agency. You may obtain this free copy of your credit report one time per year by visiting www.AnnualCreditReport.com. You will be able to view your credit report, dispute alleged inaccuracies, and obtain additional information at no fee. If requested, the consumer reporting agency must provide someone to help you interpret the information in your credit file.

You have a right to dispute inaccurate information by contacting the consumer reporting agency directly. However, neither you nor any credit repair company or credit services organization has the right to have accurate, current, and verifiable information removed from your credit report. Under the Federal Fair Credit Reporting Act, the consumer reporting agency must remove accurate, negative information from your report only if it is over seven years old. Bankruptcy information can be reported for 10 years.

If you have notified a consumer reporting agency in writing that you dispute the accuracy of information in your credit file, the consumer reporting agency must then reinvestigate and modify or remove inaccurate information. The consumer reporting agency may not charge a fee for this service. Any pertinent information and copies of all documents you have concerning an error should be given to the consumer reporting agency.

If the reinvestigation does not resolve the dispute to your satisfaction, you may send a brief statement to the consumer reporting agency to keep in your file, explaining why you think the record is inaccurate. The consumer reporting agency must include your statement about disputed information in any report it issues about you.

You have a right to cancel the contract with the credit services organization for any reason before midnight on the fifth working day after you signed it. If for any reason you cancel the contract during this time, you do not owe any money.

You have a right to take legal action against a credit services organization if it misleads you.";

(2) A complete and accurate statement of the ((~~buyer's~~)) consumer's right to dispute the completeness or accuracy of any item contained in any file on the ((~~buyer~~)) consumer maintained by any consumer reporting agency;

(3) A complete and detailed description of the services to be performed by the credit services organization for the ((~~buyer~~)) consumer and the total amount the ((~~buyer~~)) consumer will have to pay, or become obligated to pay, for the services;

(4) A statement asserting the ((~~buyer's~~)) consumer's right to proceed against the bond or trust account required under RCW 19.134.020; and

(5) The name and address of the surety company that issued the bond, or the name and address of the depository and the trustee and the account number of the trust account.

Sec. 7. RCW 19.134.060 and 1986 c 218 s 7 are each amended to read as follows:

(1) Each contract between the ((~~buyer~~)) consumer and a credit services organization for the purchase of the services of the credit services organization shall be in writing, dated, signed by the ((~~buyer~~)) consumer, and include all of the following:

(a) A conspicuous statement in bold face type, in immediate proximity to the space reserved for the signature of the ((~~buyer~~)) consumer, as follows: "You, the ((~~buyer~~)) consumer, may cancel this contract at any time prior to midnight of the fifth day after the date of the transaction. See the attached notice of cancellation form for an explanation of this right";

(b) Explicit written approval from the consumer that the credit services organization may use the consumer's signature in order to facilitate credit repair services;

(c) The terms and conditions of payment, including the total of all payments to be made by the ((~~buyer~~)) consumer, whether to the credit services organization or to some other person;

(((~~(c)~~))) (d) A full and detailed description of the services to be performed by the credit services organization for the ((~~buyer~~)) consumer, including all guarantees and all promises of full or partial refunds, and the estimated date by which the services are to be performed, or estimated length of time for performing the services, not to exceed 180 days;

(((~~(d)~~))) (e) The credit services organization's principal business address, mailing address if different, email address, facsimile number if applicable, website address if applicable, and the name and address of its agent in the state authorized to receive service of process;

(2) The contract shall be accompanied by a completed form in duplicate, captioned "Notice of Cancellation" that shall be attached to the contract, be easily detachable, and contain in bold face type the following statement written in the same language as used in the contract.

"Notice of Cancellation

You may cancel this contract, without any penalty or obligation ((~~within five days from the date the contract is signed~~)) before midnight on the fifth working day after you sign it.

If you cancel any payment made by you under this contract, it will be returned within ten days following receipt by the ((~~seller~~)) credit services organization of your cancellation notice.

To cancel this contract, mail or deliver ((~~a signed dated~~)) (including through electronic means) not later than midnight . . . . (date) . . . . , a copy of this cancellation notice, or any other written notice ((~~to . . . (name of seller) . . . at . . . (address of seller) . . . (place of business) . . . not later than midnight . . . (date) . . .~~)) of cancellation, to . . . . (name of credit services organization) . . . . at any of the following:. . . . (Credit services organization to list physical address, mailing address if different, email address, website address if applicable, and facsimile number if applicable). . . ..

I hereby cancel this transaction,

. . . (date). . .

(((~~purchaser's signature~~))). . . (consumer's name). . . "

It is not necessary that the consumer use the sample form to cancel a contract. The credit services organization shall give to the ((~~buyer~~)) consumer a copy of the completed contract and all other documents the credit services organization requires the ((~~buyer~~)) consumer to sign at the time they are signed. The credit services organization shall provide easily understood and easily exercised cancellation instructions on its website if a website is maintained by the credit services organization.

Sec. 8. RCW 19.134.070 and 1986 c 218 s 8 are each amended to read as follows:

(1) Any waiver by a ((~~buyer~~)) consumer of any part of this chapter is void. Any attempt by a credit services organization to have a ((~~buyer~~)) consumer waive rights given by this chapter is a violation of this chapter.

(2) In any proceeding involving this chapter, the burden of proving an exemption or an exception from a definition is upon the person claiming it.

(3) Any person who violates this chapter is guilty of a gross misdemeanor. Any district court of this state has jurisdiction in equity to restrain and enjoin the violation of this chapter.

(4) This section does not prohibit the enforcement by any person of any right provided by this or any other law.

(5) A violation of this chapter by a credit services organization is an unfair business practice as provided in chapter 19.86 RCW.

Sec. 9. RCW 19.134.080 and 1986 c 218 s 9 are each amended to read as follows:

(1) Any ((~~buyer~~)) person injured by a violation of this chapter may bring any action for recovery of damages. Judgment shall be entered for actual damages, ((~~but in no case less than the amount paid by the buyer to the credit~~

~~services organization,~~)) plus reasonable attorney's fees and costs. In the case of an action by a consumer, damages shall be awarded in an amount not less than the amount paid by the consumer to the credit services organization. An award may also be entered for punitive damages.

(2) The remedies provided under this chapter are in addition to any other procedures or remedies for any violation or conduct provided for in any other law.

Passed by the House March 6, 2023.
Passed by the Senate April 6, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 145

[Substitute House Bill 1323]

FIRE-RESISTANT MATERIAL APPLICATORS—TRAINING AND CERTIFICATION

AN ACT Relating to requiring a training and certification program for individuals who apply fire-resistant materials; amending RCW 39.12.055; adding a new chapter to Title 49 RCW; prescribing penalties; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature recognizes that fire protection measures are critical design elements meant to control the spread of a fire until active fire protection measures, such as sprinklers, fire extinguishers, or the fire department can take over and control a fire. Among the types of passive fire protection measures are the use of fire-resistant materials that help to protect structural steel, contain the fire, and limit damage to critical infrastructure. It is important that individuals installing these materials be properly trained to perform this work. Therefore, the legislature hereby establishes a training and certification program for fire-resistant material applicators.

NEW SECTION. **Sec. 2.** The definitions in this section apply throughout sections 3 through 5 of this act unless the context clearly requires otherwise.

(1) "Fire-resistant material" means:

(a) Wet or dry mix materials, cementitious materials, and fibrous materials, applied to achieve an hourly fire-resistant rating for buildings classified as construction types I, II, III, IV, and V, as defined by the international building code; and

(b) Sealants, putty, and caulking used for firestop systems, applied to risk category III and IV buildings, as defined by the international building code.

(2) "Certified fire-resistant material applicator" means an individual certified by the department to apply fire-resistant material. Certified fire-resistant material applicator does not include an individual applying fire-resistant material in or to the individual's own residence.

(3) "Contractor" means an employer performing work that includes the application of fire-resistant material, or any person, partnership, or business entity that does not have employees but that performs work that includes the application of fire-resistant material.

(4) "Department" means the department of labor and industries.

NEW SECTION. **Sec. 3.** (1) Every individual applying fire-resistant material for or as a contractor must be certified by the department. To qualify for certification, the individual must complete initial training and must complete refresher training every five years for recertification.

(2) All training provided under this section must be provided by an apprenticeship program registered with the Washington state apprenticeship and training council, or by fire-resistant material manufacturers or other certified training providers, that have been approved by the department to provide training in the application of fire-resistant materials. Training provided by manufacturers must include training in the application of at least four different types of fire-resistant material products.

(3) An individual who has completed the training required under this section must submit an application to the department to receive certification as a certified fire-resistant material applicator.

(4) The department shall, by rule, develop and administer a certification process for fire-resistant material applicators, including the minimum standards for initial training and refresher training, and the approval process for fire-resistance material manufacturers or other certified training providers. The department's rules and certification process must be in place at least one year prior to January 1, 2026.

NEW SECTION. **Sec. 4.** (1) Beginning January 1, 2026, contractors must ensure all fire-resistant material is applied by a certified fire-resistant material applicator prior to the individual applying any fire-resistant material. A contractor must verify that the individual is certified by the department by obtaining written documentation of the individual's certification.

(2) Contractors must retain the written documentation for a period of 10 years.

NEW SECTION. **Sec. 5.** (1) Unless specifically provided otherwise by statute, this chapter shall be implemented and enforced, including penalties, violations, citations, and other administrative procedures, pursuant to chapter 49.17 RCW.

(2) The first violation of this section is a penalty of $2,500.

(3) The second violation is a penalty of $3,000 and debarment from bidding for public works projects for one year.

(4) The third violation is a penalty of $5,000 and the contractor's permanent debarment from public works projects.

(5)(a) Violations must be published on the department's website, as determined under the department's rules.

(b) The penalties established in this section are a minimum which the department may exceed. After 2032, the department may adjust these penalties for inflation. Repeat, willful, and serious violations may result in increased penalties as determined by the department.

(6) The department must adopt rules to implement this chapter.

Sec. 6. RCW 39.12.055 and 2009 c 197 s 3 are each amended to read as follows:

((~~A~~)) Except as otherwise provided in section 5 of this act, a contractor shall not be allowed to bid on any public works contract for one year from the date of

a final determination that the contractor has committed any combination of two of the following violations or infractions within a five-year period:

(1) Violated RCW 51.48.020(1) or 51.48.103;

(2) Committed an infraction or violation under chapter 18.27 RCW for performing work as an unregistered contractor; or

(3) Determined to be out of compliance by the Washington state apprenticeship and training council for working apprentices out of ratio, without appropriate supervision, or outside their approved work processes as outlined in their standards of apprenticeship under chapter 49.04 RCW.

NEW SECTION. **Sec. 7.** Sections 1 through 5 of this act constitute a new chapter in Title 49 RCW.

NEW SECTION. **Sec. 8.** Section 4 of this act takes effect January 1, 2026.

Passed by the House February 28, 2023.

Passed by the Senate April 7, 2023.

Approved by the Governor April 20, 2023.

Filed in Office of Secretary of State April 21, 2023.

CHAPTER 146

[House Bill 1334]

PUBLIC TRANSPORTATION BENEFIT AREAS—EASEMENT FOR FERRY TERMINAL OR DOCK

AN ACT Relating to accessing certain aquatic lands by a public transportation benefit area; and adding a new section to chapter 36.57A RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 36.57A RCW to read as follows:

(1) A public transportation benefit area may obtain an easement for ferry terminal or docking facilities on, over, or across the beds of navigable waters that are under the jurisdiction of the department of natural resources. However, no easement payments are required for the easement.

(2) A public transportation benefit area may obtain an easement for ferry terminal or docking facilities on, over, or across harbor areas only when the areas are approved by the harbor line commission as a public place for public landings, wharves, or other public conveniences of commerce or navigation. No easement payments are required for the easement.

Passed by the House February 28, 2023.

Passed by the Senate April 10, 2023.

Approved by the Governor April 20, 2023.

Filed in Office of Secretary of State April 21, 2023.

CHAPTER 147

[Substitute House Bill 1355]

PROPERTY TAX EXEMPTION—DISABLED VETERANS AND SENIOR CITIZENS—INCOME THRESHOLD

AN ACT Relating to updating property tax exemptions for service-connected disabled veterans and senior citizens; amending RCW 84.36.381, 84.36.383, 84.36.385, and 84.38.020; creating new sections; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 84.36.381 and 2019 c 453 s 1 are each amended to read as follows:

A person is exempt from any legal obligation to pay all or a portion of the amount of excess and regular real property taxes due and payable in the year following the year in which a claim is filed, and thereafter, in accordance with the following:

(1)(a) The property taxes must have been imposed upon a residence which was occupied by the person claiming the exemption as a principal place of residence as of the time of filing. However, any person who sells, transfers, or is displaced from his or her residence may transfer his or her exemption status to a replacement residence, but no claimant may receive an exemption on more than one residence in any year. Moreover, confinement of the person to a hospital, nursing home, assisted living facility, adult family home, or home of a relative for the purpose of long-term care does not disqualify the claim of exemption if:

(i) The residence is temporarily unoccupied;

(ii) The residence is occupied by a spouse or a domestic partner and/or a person financially dependent on the claimant for support; or

(iii) The residence is rented for the purpose of paying nursing home, hospital, assisted living facility, or adult family home costs.

(b) For the purpose of this subsection (1), "relative" means any individual related to the claimant by blood, marriage, or adoption;

(2) The person claiming the exemption must have owned, at the time of filing, in fee, as a life estate, or by contract purchase, the residence on which the property taxes have been imposed or if the person claiming the exemption lives in a cooperative housing association, corporation, or partnership, such person must own a share therein representing the unit or portion of the structure in which he or she resides. For purposes of this subsection, a residence owned by a marital community or state registered domestic partnership or owned by cotenants is deemed to be owned by each spouse or each domestic partner or each cotenant, and any lease for life is deemed a life estate;

(3)(a) The person claiming the exemption must be:

(i) Sixty-one years of age or older on December 31st of the year in which the exemption claim is filed, or must have been, at the time of filing, retired from regular gainful employment by reason of disability; or

(ii) A veteran of the armed forces of the United States entitled to and receiving compensation from the United States department of veterans affairs at:

(A) A combined service-connected evaluation rating of ((~~eighty~~)) 80 percent or higher; or

(B) A total disability rating for a service-connected disability without regard to evaluation percent.

(b) However, any surviving spouse or surviving domestic partner of a person who was receiving an exemption at the time of the person's death will qualify if the surviving spouse or surviving domestic partner is ((~~fifty-seven~~)) 57 years of age or older and otherwise meets the requirements of this section;

(4)(a) The amount that the person is exempt from an obligation to pay is calculated on the basis of combined disposable income, as defined in RCW 84.36.383.

(b) If the person claiming the exemption was retired for two months or more of the assessment year, the combined disposable income of such person must be calculated by multiplying the average monthly combined disposable income of such person during the months such person was retired by ((~~twelve~~)) 12.

(c) If the income of the person claiming exemption is reduced for two or more months of the assessment year by reason of the death of the person's spouse or the person's domestic partner, or when other substantial changes occur in disposable income that are likely to continue for an indefinite period of time, the combined disposable income of such person must be calculated by multiplying the average monthly combined disposable income of such person after such occurrences by ((~~twelve~~)) 12.

(d)(i) If the income of the person claiming the exemption increases as a result of a cost-of-living adjustment to social security benefits or supplemental security income in an amount that would disqualify the applicant from eligibility, the applicant is not disqualified but instead maintains eligibility.

(ii) The continued eligibility under this subsection applies to applications for property taxes levied for collection in calendar year 2024.

(e) If it is necessary to estimate income to comply with this subsection (4), the assessor may require confirming documentation of such income prior to May 31st of the year following application;

(5)(a) A person who otherwise qualifies under this section and has a combined disposable income equal ((~~[to]~~)) to or less than income threshold 3 is exempt from all excess property taxes, the additional state property tax imposed under RCW 84.52.065(2), and the portion of the regular property taxes authorized pursuant to RCW 84.55.050 and approved by the voters, if the legislative authority of the county or city imposing the additional regular property taxes identified this exemption in the ordinance placing the RCW 84.55.050 measure on the ballot; and

(b)(i) A person who otherwise qualifies under this section and has a combined disposable income equal to or less than income threshold 2 but greater than income threshold 1 is exempt from all regular property taxes on the greater of ((~~fifty thousand dollars~~)) $50,000 or ((~~thirty-five~~)) 35 percent of the valuation of his or her residence, but not to exceed ((~~seventy thousand dollars~~)) $70,000 of the valuation of his or her residence; or

(ii) A person who otherwise qualifies under this section and has a combined disposable income equal to or less than income threshold 1 is exempt from all regular property taxes on the greater of ((~~sixty thousand dollars~~)) $60,000 or ((~~sixty~~)) 60 percent of the valuation of his or her residence;

(6)(a) For a person who otherwise qualifies under this section and has a combined disposable income equal ((~~[to]~~)) to or less than income threshold 3, the valuation of the residence is the assessed value of the residence on the later of January 1, 1995, or January 1st of the assessment year the person first

qualifies under this section. If the person subsequently fails to qualify under this section only for one year because of high income, this same valuation must be used upon requalification. If the person fails to qualify for more than one year in succession because of high income or fails to qualify for any other reason, the valuation upon requalification is the assessed value on January 1st of the assessment year in which the person requalifies. If the person transfers the exemption under this section to a different residence, the valuation of the different residence is the assessed value of the different residence on January 1st of the assessment year in which the person transfers the exemption.

(b) In no event may the valuation under this subsection be greater than the true and fair value of the residence on January 1st of the assessment year.

(c) This subsection does not apply to subsequent improvements to the property in the year in which the improvements are made. Subsequent improvements to the property must be added to the value otherwise determined under this subsection at their true and fair value in the year in which they are made.

Sec. 2. RCW 84.36.383 and 2021 c 220 s 1 are each amended to read as follows:

As used in RCW 84.36.381 through 84.36.389, unless the context clearly requires otherwise:

(1) "Combined disposable income" means the disposable income of the person claiming the exemption, plus the disposable income of his or her spouse or domestic partner, and the disposable income of each cotenant occupying the residence for the assessment year, less amounts paid by the person claiming the exemption or his or her spouse or domestic partner during the assessment year for:

(a) Drugs supplied by prescription of a medical practitioner authorized by the laws of this state or another jurisdiction to issue prescriptions;

(b) The treatment or care of either person received in the home or in a nursing home, assisted living facility, or adult family home;

(c) Health care insurance premiums for medicare under Title XVIII of the social security act;

(d) Costs related to medicare supplemental policies as defined in Title 42 U.S.C. Sec. 1395ss;

(e) Durable medical equipment, mobility enhancing equipment, medically prescribed oxygen, and prosthetic devices as defined in RCW 82.08.0283;

(f) Long-term care insurance as defined in RCW 48.84.020;

(g) Cost-sharing amounts as defined in RCW 48.43.005;

(h) Nebulizers as defined in RCW 82.08.803;

(i) Medicines of mineral, animal, and botanical origin prescribed, administered, dispensed, or used in the treatment of an individual by a person licensed under chapter 18.36A RCW;

(j) Ostomic items as defined in RCW 82.08.804;

(k) Insulin for human use;

(l) Kidney dialysis devices; and

(m) Disposable devices used to deliver drugs for human use as defined in RCW 82.08.935.

(2) "Cotenant" means a person who resides with the person claiming the exemption and who has an ownership interest in the residence.

(3) "County median household income" means the median household income estimates for the state of Washington by county of the legal address of the principal place of residence, as published by the office of financial management.

(4) "Department" means the state department of revenue.

(5) "Disability" has the same meaning as provided in 42 U.S.C. Sec. 423(d)(1)(A) as amended prior to January 1, 2005, or such subsequent date as the department may provide by rule consistent with the purpose of this section.

(6) "Disposable income" means adjusted gross income as defined in the federal internal revenue code, as amended prior to January 1, 1989, or such subsequent date as the director may provide by rule consistent with the purpose of this section, plus all of the following items to the extent they are not included in or have been deducted from adjusted gross income:

(a) Capital gains, other than gain excluded from income under section 121 of the federal internal revenue code to the extent it is reinvested in a new principal residence;

(b) Amounts deducted for loss;

(c) Amounts deducted for depreciation;

(d) Pension and annuity receipts;

(e) Military pay and benefits other than attendant-care and medical-aid payments;

(f) Veterans benefits, other than:

(i) Attendant-care payments;

(ii) Medical-aid payments;

(iii) Disability compensation, as defined in Title 38, part 3, section 3.4 of the Code of Federal Regulations, as of January 1, 2008; and

(iv) Dependency and indemnity compensation, as defined in Title 38, part 3, section 3.5 of the Code of Federal Regulations, as of January 1, 2008;

(g) Federal social security act and railroad retirement benefits;

(h) Dividend receipts; and

(i) Interest received on state and municipal bonds.

(7) "Income threshold 1" means:

(a) For taxes levied for collection in calendar years prior to 2020, a combined disposable income equal to ((~~thirty-thousand-dollars~~)) $30,000; ((~~and~~))

(b) For taxes levied for collection in calendar years 2020 ((~~and thereafter~~)) through 2023, a combined disposable income equal to the greater of "income threshold 1" for the previous year or ((~~forty-five~~)) 45 percent of the county median household income((~~, adjusted every five years beginning August 1, 2019, as provided in RCW 84.36.385(8)~~)); and

(c) For taxes levied for collection in calendar year 2024 and thereafter, a combined disposable income equal to the greater of "income threshold 1" for the previous year or 50 percent of the county median household income, adjusted every three years beginning August 1, 2023, as provided in RCW 84.36.385(8).

(8) "Income threshold 2" means:

(a) For taxes levied for collection in calendar years prior to 2020, a combined disposable income equal to ((~~thirty-five-thousand-dollars~~)) $35,000; ((~~and~~))

(b) For taxes levied for collection in calendar years 2020 ((~~and thereafter~~)) through 2023, a combined disposable income equal to the greater of "income threshold 2" for the previous year or ((~~fifty-five~~)) 55 percent of the county median household income((~~, adjusted every five years beginning August 1, 2019, as provided in RCW 84.36.385(8)~~)); and

(c) For taxes levied for collection in calendar year 2024 and thereafter, a combined disposable income equal to the greater of "income threshold 2" for the previous year or 60 percent of the county median household income, adjusted every three years beginning August 1, 2023, as provided in RCW 84.36.385(8).

(9) "Income threshold 3" means:

(a) For taxes levied for collection in calendar years prior to 2020, a combined disposable income equal to ((~~forty thousand dollars~~)) $40,000; ((~~and~~))

(b) For taxes levied for collection in calendar years 2020 ((~~and thereafter~~)) through 2023, a combined disposable income equal to the greater of "income threshold 3" for the previous year or ((~~sixty-five~~)) 65 percent of the county median household income((~~, adjusted every five years beginning August 1, 2019, as provided in RCW 84.36.385(8)~~)); and

(c) For taxes levied for collection in calendar year 2024 and thereafter, a combined disposable income equal to the greater of "income threshold 3" for the previous year or 70 percent of the county median household income, adjusted every three years beginning August 1, 2023, as provided in RCW 84.36.385(8).

(10) "Principal place of residence" means a residence occupied for more than six months each calendar year by a person claiming an exemption under RCW 84.36.381.

(11) The term "real property" also includes a mobile home which has substantially lost its identity as a mobile unit by virtue of its being fixed in location upon land owned or leased by the owner of the mobile home and placed on a foundation (posts or blocks) with fixed pipe, connections with sewer, water, or other utilities. A mobile home located on land leased by the owner of the mobile home is subject, for tax billing, payment, and collection purposes, only to the personal property provisions of chapter 84.56 RCW and RCW 84.60.040.

(12) The term "residence" means a single-family dwelling unit whether such unit be separate or part of a multiunit dwelling, including the land on which such dwelling stands not to exceed one acre, except that a residence includes any additional property up to a total of five acres that comprises the residential parcel if this larger parcel size is required under land use regulations. The term also includes a share ownership in a cooperative housing association, corporation, or partnership if the person claiming exemption can establish that his or her share represents the specific unit or portion of such structure in which he or she resides. The term also includes a single-family dwelling situated upon lands the fee of which is vested in the United States or any instrumentality thereof including an Indian tribe or in the state of Washington, and notwithstanding the provisions of RCW 84.04.080 and 84.04.090, such a residence is deemed real property.

Sec. 3. RCW 84.36.385 and 2021 c 145 s 24 are each amended to read as follows:

(1) A claim for exemption under RCW 84.36.381 as now or hereafter amended, may be made and filed at any time during the year for exemption from taxes payable the following year and thereafter and solely upon forms as

prescribed and furnished by the department of revenue. However, an exemption from tax under RCW 84.36.381 continues for no more than six years unless a renewal application is filed as provided in subsection (3) of this section.

(2) A person granted an exemption under RCW 84.36.381 must inform the county assessor of any change in status affecting the person's entitlement to the exemption on forms prescribed and furnished by the department of revenue.

(3) Each person exempt from taxes under RCW 84.36.381 in 1993 and thereafter must file with the county assessor a renewal application not later than December 31st of the year the assessor notifies such person of the requirement to file the renewal application. Renewal applications must be on forms prescribed and furnished by the department of revenue.

(4) At least once every six years, the county assessor must notify those persons receiving an exemption from taxes under RCW 84.36.381 of the requirement to file a renewal application. The county assessor may also require a renewal application following an amendment of the income requirements set forth in RCW 84.36.381.

(5) If the assessor finds that the applicant does not meet the qualifications as set forth in RCW 84.36.381, as now or hereafter amended, the claim or exemption must be denied but such denial is subject to appeal under the provisions of RCW 84.48.010 and in accordance with the provisions of RCW 84.40.038. If the applicant had received exemption in prior years based on erroneous information, the taxes must be collected subject to penalties as provided in RCW 84.40.130 for a period of not to exceed five years.

(6) The department and each local assessor is hereby directed to publicize the qualifications and manner of making claims under RCW 84.36.381 through 84.36.389, through communications media, including such paid advertisements or notices as it deems appropriate. Notice of the qualifications, method of making applications, the penalties for not reporting a change in status, and availability of further information must be included on or with property tax statements and revaluation notices for all residential property including mobile homes, except rental properties.

(7) The department must authorize an option for electronic filing of applications and renewal applications for the exemption under RCW 84.36.381.

(8) Beginning August 1, ((~~2019~~)) 2023, and by March 1st every ((~~fifth~~)) third year thereafter, the department must publish updated income thresholds. The adjusted thresholds must be rounded up to the nearest one thousand dollars. If the income threshold adjustment is negative, the income threshold for the prior year continues to apply. The department must adjust income thresholds for each county to reflect the most recent year available of estimated county median household incomes, including preliminary estimates or projections, as published by the office of financial management. For the purposes of this subsection, "county median household income" has the same meaning as provided in RCW 84.36.383.

(9) Beginning with the adjustment made by ((~~March 1, 2024~~)) August 1, 2023, as provided in subsection (8) of this section, and every ((~~second~~)) adjustment thereafter, if an income threshold in a county is not adjusted based on percentage of county median income, then the income threshold must be adjusted based on the growth of the seasonally adjusted consumer price index for all urban consumers (CPI-U) for the prior twelve month period as published

by the United States bureau of labor statistics. In no case may the adjustment be greater than one percent. The adjusted thresholds must be rounded to the nearest one dollar. If the income threshold adjustment is negative, the income threshold for the prior year continues to apply.

Sec. 4. RCW 84.38.020 and 2019 c 453 s 4 are each amended to read as follows:

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

(1)(a) "Claimant" means a person who either elects or is required under RCW 84.64.050 to defer payment of the special assessments and/or real property taxes accrued on the claimant's residence by filing a declaration to defer as provided by this chapter.

(b) When two or more individuals of a household file or seek to file a declaration to defer, they may determine between them as to who the claimant is.

(2) "Devisee" has the same meaning as provided in RCW 21.35.005.

(3) "Equity value" means the amount by which the fair market value of a residence as determined from the records of the county assessor exceeds the total amount of any liens or other obligations against the property.

(4) "Heir" has the same meaning as provided in RCW 21.35.005.

(5) "Income threshold" means: (a) For taxes levied for collection in calendar years prior to 2020, a combined disposable income equal to ((~~forty-five thousand dollars~~)) $45,000; and (b) for taxes levied for collection in calendar year 2020 and thereafter, a combined disposable income equal to the greater of the income threshold for the previous year, or ((~~seventy-five~~)) 75 percent of the county median household income, adjusted every ((~~five~~)) three years beginning August 1, ((~~2019~~)) 2023, as provided in RCW 84.36.385(8). Beginning with the adjustment made by ((~~March 1, 2024~~)) August 1, 2023, as provided in RCW 84.36.385(8), ((~~and every second adjustment thereafter,~~)) if the income threshold in a county is not adjusted based on percentage of county median income as provided in this subsection, then the income threshold must be adjusted based on the growth of the consumer price index for all urban consumers (CPI-U) for the prior twelve-month period as published by the United States bureau of labor statistics. In no case may the adjustment be greater than one percent. The adjusted threshold must be rounded to the nearest one dollar. If the income threshold adjustment is negative, the income threshold for the prior year continues to apply.

(6) "Local government" means any city, town, county, water-sewer district, public utility district, port district, irrigation district, flood control district, or any other municipal corporation, quasi-municipal corporation, or other political subdivision authorized to levy special assessments.

(7) "Real property taxes" means ad valorem property taxes levied on a residence in this state in the preceding calendar year.

(8) "Residence" has the meaning given in RCW 84.36.383.

(9) "Special assessment" means the charge or obligation imposed by a local government upon property specially benefited.

NEW SECTION. **Sec. 5.** (1) Subject to the availability of funds appropriated for this specific purpose, the department of revenue must engage in statewide outreach to provide public notification of the changes in income

thresholds as the result of this act, as well as information on the application process for the exemption under RCW 84.36.381.

(2) This section expires June 30, 2024.

NEW SECTION. **Sec. 6.** RCW 82.32.805 and 82.32.808 do not apply to this act.

Passed by the House March 2, 2023.
Passed by the Senate April 7, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 148

[Engrossed Substitute House Bill 1361]

STATE EMPLOYMENT—VARIOUS PROVISIONS

AN ACT Relating to updating statutes related to state employment by removing obsolete language, eliminating unnecessary reports, conforming a reporting period to fiscal year, and modernizing employee pay procedures; amending RCW 42.16.010, 41.06.070, and 43.41.275; and reenacting and amending RCW 41.06.133.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 41.06.133 and 2011 1st sp.s. c 43 s 407 and 2011 1st sp.s. c 39 s 5 are each reenacted and amended to read as follows:

(1) The director shall adopt rules, consistent with the purposes and provisions of this chapter and with the best standards of personnel administration, regarding the basis and procedures to be followed for:

(a) The reduction, dismissal, suspension, or demotion of an employee;

(b) Training and career development;

(c) Probationary periods of six to twelve months and rejections of probationary employees, depending on the job requirements of the class, except as follows:

(i) Entry-level state park rangers shall serve a probationary period of twelve months; and

(ii) The probationary period of campus police officer appointees who are required to attend the Washington state criminal justice training commission basic law enforcement academy shall extend from the date of appointment until twelve months from the date of successful completion of the basic law enforcement academy, or twelve months from the date of appointment if academy training is not required. The director shall adopt rules to ensure that employees promoting to campus police officer who are required to attend the Washington state criminal justice training commission basic law enforcement academy shall have the trial service period extend from the date of appointment until twelve months from the date of successful completion of the basic law enforcement academy, or twelve months from the date of appointment if academy training is not required;

(d) Transfers;

(e) Promotional preferences;

(f) Sick leaves and vacations;

(g) Hours of work;

(h) Layoffs when necessary and subsequent reemployment, except for the financial basis for layoffs;

(i) The number of names to be certified for vacancies;

(j) Subject to RCW 41.04.820, adoption and revision of a state salary schedule to reflect the prevailing rates in Washington state private industries and other governmental units((~~. The rates in the salary schedules or plans shall be increased if necessary to attain comparable worth under an implementation plan under RCW 41.06.155 and, for institutions of higher education and related boards, shall be competitive for positions of a similar nature in the state or the locality in which an institution of higher education or related board is located. Such adoption and revision is subject to approval by the director of financial management in accordance with chapter 43.88 RCW~~));

(k) Increment increases within the series of steps for each pay grade based on length of service for all employees whose standards of performance are such as to permit them to retain job status in the classified service((~~. From February 18, 2009, through June 30, 2013, a salary or wage increase shall not be granted to any exempt position under this chapter, except that a salary or wage increase may be granted to employees pursuant to collective bargaining agreements negotiated under chapter 28B.52, 41.56, 47.64, or 41.76 RCW, and except that increases may be granted for positions for which the employer has demonstrated difficulty retaining qualified employees if the following conditions are met:~~

~~(i) The salary increase can be paid within existing resources;~~

~~(ii) The salary increase will not adversely impact the provision of client services; and~~

~~(iii) For any state agency of the executive branch, not including institutions of higher education, the salary increase is approved by the director of the office of financial management;~~

~~Any agency granting a salary increase from February 15, 2010, through June 30, 2011, to a position exempt under this chapter shall submit a report to the fiscal committees of the legislature no later than July 31, 2011, detailing the positions for which salary increases were granted, the size of the increases, and the reasons for giving the increases;~~

~~Any agency granting a salary increase from July 1, 2011, through June 30, 2013, to a position exempt under this chapter shall submit a report to the fiscal committees of the legislature by July 31, 2012, and July 31, 2013, detailing the positions for which salary increases were granted during the preceding fiscal year, the size of the increases, and the reasons for giving the increases~~));

(l) Optional lump sum relocation compensation approved by the agency director, whenever it is reasonably necessary that a person make a domiciliary move in accepting a transfer or other employment with the state. An agency must provide lump sum compensation within existing resources. If the person receiving the relocation payment terminates or causes termination with the state, for reasons other than layoff, disability separation, or other good cause as determined by an agency director, within one year of the date of the employment, the state is entitled to reimbursement of the lump sum compensation from the person;

(m) Providing for veteran's preference as required by existing statutes, with recognition of preference in regard to layoffs and subsequent reemployment for veterans and their surviving spouses by giving such eligible veterans and their

surviving spouses additional credit in computing their seniority by adding to their unbroken state service, as defined by the director, the veteran's service in the military not to exceed five years. For the purposes of this section, "veteran" means any person who has one or more years of active military service in any branch of the armed forces of the United States or who has less than one year's service and is discharged with a disability incurred in the line of duty or is discharged at the convenience of the government and who, upon termination of such service, has received an honorable discharge, a discharge for physical reasons with an honorable record, or a release from active military service with evidence of service other than that for which an undesirable, bad conduct, or dishonorable discharge shall be given. However, the surviving spouse of a veteran is entitled to the benefits of this section regardless of the veteran's length of active military service. For the purposes of this section, "veteran" does not include any person who has voluntarily retired with twenty or more years of active military service and whose military retirement pay is in excess of five hundred dollars per month.

(2) Rules adopted under this section by the director shall provide for local administration and management by the institutions of higher education and related boards, subject to periodic audit and review by the director.

(3) Rules adopted by the director under this section may be superseded by the provisions of a collective bargaining agreement negotiated under RCW 41.80.001 and 41.80.010 through 41.80.130. The supersession of such rules shall only affect employees in the respective collective bargaining units.

~~(((4)(a) The director shall require that each state agency report annually the following data:~~

~~(i) The number of classified, Washington management service, and exempt employees in the agency and the change compared to the previous report;~~

~~(ii) The number of bonuses and performance-based incentives awarded to agency staff and the base wages of such employees; and~~

~~(iii) The cost of each bonus or incentive awarded.~~

~~(b) A report that compiles the data in (a) of this subsection for all agencies will be provided annually to the governor and the appropriate committees of the legislature and must be posted for the public on the office of financial management's agency website.~~

~~(5) From February 15, 2010, until June 30, 2013, no monetary performance-based awards or incentives may be granted by the director or employers to employees covered by rules adopted under this section. This subsection does not prohibit the payment of awards provided for in chapter 41.60 RCW.~~

~~From July 1, 2011, until June 30, 2013, no performance-based awards or incentives may be granted by the director or employers to employees pursuant to a performance management confirmation granted by the department of personnel under WAC 357-37-055.~~))

Sec. 2. RCW 42.16.010 and 2014 c 162 s 2 are each amended to read as follows:

(1) Except as provided otherwise in subsections (2) and (3) of this section, all state officers and employees shall be paid for services rendered from the first day of the month through the fifteenth day of the month and for services rendered from the sixteenth day of the month through the last calendar day of the month. Paydates for these two pay periods shall be established by the director of

financial management through the administrative hearing process and the official paydates shall be established six months prior to the beginning of each subsequent calendar year. Under no circumstance shall the paydate be established more than ten days after the pay period in which the wages are earned except when the designated paydate falls on Sunday, in which case the paydate shall not be later than the following Monday.

((~~Payment~~)) (2) Except as provided by subsection (3) of this section, payment shall be deemed to have been made by the established paydates if: (a) The salary warrant is available at the geographic work location at which the warrant is normally available to the employee; or (b) the salary has been electronically transferred into the employee's account at the employee's designated financial institution; or (c) the salary warrants are mailed at least two days before the established paydate for those employees engaged in work in remote or varying locations from the geographic location at which the payroll is prepared, provided that the employee has requested payment by mail.

The office of financial management shall develop the necessary policies and operating procedures to assure that all remuneration for services rendered including basic salary, shift differential, standby pay, overtime, penalty pay, salary due based on contractual agreements, and special pay provisions, as provided for by law, agency policy or rule, or contract, shall be available to the employee on the designated paydate. Overtime, penalty pay, and special pay provisions may be paid by the next following paydate if the postponement of payment is attributable to: The employee's not making a timely or accurate report of the facts which are the basis for the payment, or the employer's lack of reasonable opportunity to verify the claim.

Compensable benefits payable because of separation from state service shall be paid with the earnings for the final period worked unless the employee separating has not provided the agency with the proper notification of intent to terminate.

One-half of the employee's basic monthly salary shall be paid in each pay period. Employees paid on an hourly basis or employees who work less than a full pay period shall be paid for actual salary earned.

((~~(2) Subsection (1)~~)) (3)(a) Subsection (2) of this section does not apply to state officers and employees whose appointment to state service begins July 1, 2023, or thereafter. For state officers and employees whose appointment to state service begins July 1, 2023, or thereafter, payment for salaries must be made by electronic funds transfer. Payment will be deemed to have been made by the established paydate if the electronic funds transfer has been executed.

(b) For purposes of this subsection (3), electronic funds transfer means the electronic transfer of funds into an account at the officer's or employee's designated financial institution or the funds are loaded onto a payroll card.

(4) Subsections (1), (2), and (3) of this section shall not apply in instances where it would conflict with contractual rights or, with the approval of the office of financial management, to short-term, intermittent, noncareer state employees, to student employees of institutions of higher education, and to national or state guard members participating in state active duty((~~, and to liquor control agency managers who are paid a percentage of monthly liquor sales~~)). The University of Washington is not subject to the requirements of subsection (3) of this section until July 1, 2025.

(((~~(3)~~))) (5) When a national or state guard member is called to participate in state active duty, the paydate shall be no more than seven days following completion of duty or the end of the pay period, whichever is first. When the seventh day falls on Sunday, the paydate shall not be later than the following Monday. This subsection shall apply only to the pay a national or state guard member receives from the military department for state active duty.

(((~~(4)~~))) (6) Notwithstanding subsections (1) and (2) of this section, a bargained contract at an institution of higher education may include a provision for paying part-time academic employees on a pay schedule that coincides with all the paydays used for full-time academic employees.

(((~~(5)~~))) (7)(a) Notwithstanding subsections (1), (2), and (((~~(4)~~))) (6) of this section, an institution of higher education as defined in RCW 28B.10.016 may pay its employees for services rendered biweekly, in pay periods consisting of two consecutive seven calendar-day weeks. The paydate for each pay period shall be seven calendar days after the end of the pay period. Under no circumstance may the paydate be established more than seven days after the pay period in which the wages are earned except that when the designated paydate falls on a holiday, the paydate shall not be later than the following Monday.

(b) Employees on a biweekly payroll cycle under this subsection (((~~(5)~~))) (7) who are paid a salary may receive a prorated amount of their annualized salary each pay period. The prorated amount must be proportional to the number of pay periods worked in the calendar year. Employees on a biweekly payroll cycle under this subsection (((~~(5)~~))) (7) who are paid hourly, or who work less than a full pay period may be paid the actual salary amount earned during the pay period.

(c) Each institution that adopts a biweekly pay schedule under this subsection (((~~(5)~~))) (7) must establish, publish, and notify the director of the office of financial management of the official paydates six months before the beginning of each subsequent calendar year.

(((~~(6)~~))) (8) Notwithstanding subsections (1), (2), and (((~~(4)~~))) (6) of this section, academic employees at institutions of higher education as defined in RCW 28B.10.016 whose employment appointments are less than twelve months may have their salaries prorated in such a way that coincides with the paydays used for full-time employees.

Sec. 3. RCW 41.06.070 and 2019 c 146 s 3 are each amended to read as follows:

(1) The provisions of this chapter do not apply to:

(a) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, joint legislative audit and review committee, statute law committee, and any interim committee of the legislature;

(b) The justices of the supreme court, judges of the court of appeals, judges of the superior courts or of the inferior courts, or to any employee of, or position in the judicial branch of state government;

(c) Officers, academic personnel, and employees of technical colleges;

(d) The officers of the Washington state patrol;

(e) Elective officers of the state;

(f) The chief executive officer of each agency;

(g) In the departments of employment security and social and health services, the director and the director's confidential secretary; in all other

departments, the executive head of which is an individual appointed by the governor, the director, his or her confidential secretary, and his or her statutory assistant directors;

(h) In the case of a multimember board, commission, or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or are otherwise chosen:

(i) All members of such boards, commissions, or committees;

(ii) If the members of the board, commission, or committee serve on a part-time basis and there is a statutory executive officer: The secretary of the board, commission, or committee; the chief executive officer of the board, commission, or committee; and the confidential secretary of the chief executive officer of the board, commission, or committee;

(iii) If the members of the board, commission, or committee serve on a full-time basis: The chief executive officer or administrative officer as designated by the board, commission, or committee; and a confidential secretary to the chair of the board, commission, or committee;

(iv) If all members of the board, commission, or committee serve ex officio: The chief executive officer; and the confidential secretary of such chief executive officer;

(i) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;

(j) Assistant attorneys general;

(k) Commissioned and enlisted personnel in the military service of the state;

(l) Inmate, student, and temporary employees, and part-time professional consultants, as defined by the director;

(m) Officers and employees of the Washington state fruit commission;

(n) Officers and employees of the Washington apple commission;

(o) Officers and employees of the Washington state dairy products commission;

(p) Officers and employees of the Washington tree fruit research commission;

(q) Officers and employees of the Washington state beef commission;

(r) Officers and employees of the Washington grain commission;

(s) Officers and employees of any commission formed under chapter 15.66 RCW;

(t) Officers and employees of agricultural commissions formed under chapter 15.65 RCW;

(u) Executive assistants for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law;

(v) In each agency with fifty or more employees: Deputy agency heads, assistant directors or division directors, and not more than three principal policy assistants who report directly to the agency head or deputy agency heads;

(w) Staff employed by the department of commerce to administer energy policy functions;

(x) The manager of the energy facility site evaluation council;

(y) A maximum of ten staff employed by the department of commerce to administer innovation and policy functions, including the three principal policy assistants exempted under (v) of this subsection;

(z) Staff employed by Washington State University to administer energy education, applied research, and technology transfer programs under RCW 43.21F.045 as provided in RCW 28B.30.900(5);

(aa) Officers and employees of the consolidated technology services agency created in RCW 43.105.006 that perform the following functions or duties: Systems integration; data center engineering and management; network systems engineering and management; information technology contracting; information technology customer relations management; and network and systems security;

(bb) The executive director of the Washington statewide reentry council.

(2) The following classifications, positions, and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter:

(a) Members of the governing board of each institution of higher education and related boards, all presidents, vice presidents, and their confidential secretaries, administrative, and personal assistants; deans, directors, and chairs; academic personnel; and executive heads of major administrative or academic divisions employed by institutions of higher education; principal assistants to executive heads of major administrative or academic divisions; other managerial or professional employees in an institution or related board having substantial responsibility for directing or controlling program operations and accountable for allocation of resources and program results, or for the formulation of institutional policy, or for carrying out personnel administration or labor relations functions, legislative relations, public information, development, senior computer systems and network programming, or internal audits and investigations; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington;

(b) The governing board of each institution, and related boards, may also exempt from this chapter classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training as determined by the board: PROVIDED, That no nonacademic employee engaged in office, clerical, maintenance, or food and trade services may be exempted by the board under this provision;

(c) Printing craft employees in the department of printing at the University of Washington.

(3) In addition to the exemptions specifically provided by this chapter, the director may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the office of financial management stating the reasons for requesting such exemptions. The director shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the director determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a

major administrative division thereof, or is a senior expert in enterprise information technology infrastructure, engineering, or systems, the director shall grant the request. The total number of additional exemptions permitted under this subsection shall not exceed one percent of the number of employees in the classified service not including employees of institutions of higher education and related boards for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor.

(4) The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full-time members of boards and commissions, administrative assistants and confidential secretaries in the immediate office of an elected state official, and the personnel listed in subsections (1)(j) through (t) and (2) of this section, shall be determined by the director. Changes to the classification plan affecting exempt salaries must meet the same provisions for classified salary increases resulting from adjustments to the classification plan as outlined in RCW 41.06.152.

(5)(a) Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights: If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

(b) Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

(c) A person occupying an exempt position who is terminated from the position for gross misconduct or malfeasance does not have the right of reversion to a classified position as provided for in this section.

(6)(a) Notwithstanding the provisions of subsection (5) of this section, a person cannot exercise the right of reversion to a classified position if the employee has been given written notice that they are the subject of an active workplace investigation in which the allegations being investigated, if founded, could result in a finding of gross misconduct or malfeasance. The right of reversion is suspended during the pendency of the investigation. For the purposes of this subsection, written notice includes notice sent by email to the employee's work email address.

(b) The office of financial management must adopt rules implementing this section.

Sec. 4. RCW 43.41.275 and 2015 c 204 s 3 are each amended to read as follows:

(1) By January 31st of each year, state agencies employing one hundred or more people must submit the report described in subsection (2) of this section to the human resources director, with copies to the director of the department of social and health services' division of vocational rehabilitation and the governor's disability employment task force.

(2) The report must include the following information:

(a) The number of employees from the previous ((~~calendar~~)) fiscal year;

(b) The number of employees classified as individuals with disabilities;

(c) The number of employees that separated from the state agency the previous year;

(d) The number of employees that were hired by the state agency the previous year;

(e) The number of employees hired from the division of vocational rehabilitation services and from the department of the services for the blind the previous year;

(f) The number of planned hires for the current year; and

(g) Opportunities for internships for the department of social and health services' division of vocational rehabilitation and developmental disabilities administration, and the department of the services for the blind client placement, leading to an entry-level position placement upon successful completion for the current year.

Passed by the House February 16, 2023.

Passed by the Senate April 8, 2023.

Approved by the Governor April 20, 2023.

Filed in Office of Secretary of State April 21, 2023.

CHAPTER 149

[House Bill 1370]

SECURITIES FRAUD—WHISTLEBLOWERS AND INTERNAL REPORTERS

AN ACT Relating to the payment of awards to whistleblowers who report violations of state or federal securities laws and providing protection to whistleblowers and internal reporters; amending RCW 42.56.400 and 43.320.115; and adding a new chapter to Title 21 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** This act may be known and cited as the whistleblower award and protection act.

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

(1) "Monetary sanction" means any moneys, including penalties, disgorgement, and interest, ordered to be paid as a result of an administrative or judicial action.

(2) "Original information" means information that is:

(a) Derived from the independent knowledge or analysis of a whistleblower;

(b) Not already known to the securities administrator or the securities division from any other source, unless the whistleblower is the original source of the information;

(c) Not exclusively derived from an allegation made in an administrative or judicial hearing, in a government report, hearing, audit, or investigation, or from the news media, unless the whistleblower is the source of the information; and

(d) Provided to the securities division for the first time after the effective date of this section.

(3) "Securities administrator" means the administrator of the securities act of Washington, chapter 21.20 RCW, designated pursuant to RCW 21.20.460.

(4) "Securities division" means the division of the department of financial institutions that administers the securities act of Washington, chapter 21.20 RCW.

(5) "Whistleblower" means an individual who, alone or jointly with others, provides the state or other law enforcement agency with information pursuant to the provisions set forth in this chapter, and the information relates to a possible violation of state or federal securities laws, including any rules or regulations thereunder, that has occurred, is ongoing, or is about to occur.

NEW SECTION. **Sec. 3.** Subject to the provisions of this chapter, the securities administrator may award an amount to one or more whistleblowers who voluntarily provide original information in writing, and in the form and manner required by the securities administrator, to the securities division that leads to the successful enforcement of an administrative or judicial action under chapter 21.20 RCW.

NEW SECTION. **Sec. 4.** Any individual who anonymously makes a claim must be represented by counsel. Prior to the payment of an award, a whistleblower shall disclose their identity and provide such other information as the securities division may require, directly or through counsel, for the whistleblower.

NEW SECTION. **Sec. 5.** If the securities administrator determines to make one or more awards under section 3 of this act, the aggregate amount of awards that may be awarded in connection with an administrative or judicial action may not be less than 10 percent nor more than 30 percent of the monetary sanctions imposed and collected in the related administrative or judicial action.

NEW SECTION. **Sec. 6.** The determination of the amount of an award made under this chapter shall be in the discretion of the securities administrator consistent with sections 5 and 7 of this act.

NEW SECTION. **Sec. 7.** Any whistleblower awards paid under this chapter shall be paid from the securities prosecution fund established in RCW 43.320.115.

NEW SECTION. **Sec. 8.** In determining the amount of an award under this chapter, the securities administrator shall consider:

(1) The significance of the original information provided by the whistleblower to the success of the administrative or judicial action;

(2) The degree of assistance provided by the whistleblower in connection with the administrative or judicial action;

(3) The programmatic interest of the securities administrator in deterring violations of the securities laws by making awards to whistleblowers who provide original information that leads to the successful enforcement of such laws; and

(4) Any other factors the securities administrator considers relevant.

NEW SECTION. **Sec. 9.** The securities administrator shall not provide an award to a whistleblower under this section if the whistleblower:

(1) Is convicted of a felony in connection with the administrative or judicial action for which the whistleblower otherwise could receive an award;

(2) Acquires the original information through the performance of an audit of financial statements required under the securities laws and for whom providing the original information violates 15 U.S.C. 78j-1;

(3) Fails to submit information to the securities division in such form as the securities administrator may prescribe;

(4) Knowingly or recklessly makes a false, fictitious, or fraudulent statement or misrepresentation as part of, or in connection with, the original information provided or the administrative or judicial proceeding for which the original information was provided;

(5) In the whistleblower's submission, the whistleblower's other dealings with the securities administrator, or in the whistleblower's dealings with another authority in connection with a related action, knowingly and willfully makes any false, fictitious, or fraudulent statement or representation, or uses any false writing or document knowing that it contains any false, fictitious, or fraudulent statement or entry with intent to mislead or otherwise hinder the securities administrator or another authority;

(6) Knows that, or has a reckless disregard as to whether, the original information provided is false, fictitious, or fraudulent;

(7) Has a legal duty to report the original information to the securities administrator or securities division;

(8) Is, or was at the time the whistleblower acquired the original information submitted to the securities division, a member, officer, or employee of the department of financial institutions, the securities and exchange commission, any other state securities regulatory authority, a self-regulatory organization, the public company accounting oversight board, or any law enforcement organization;

(9) Is, or was at the time the whistleblower acquired the original information submitted to the securities division, a member, officer, or employee of a foreign government, any political subdivision, department, agency, or instrumentality of a foreign government, or any other foreign financial regulatory authority as that term is defined in 15 U.S.C. 78c(a)(52);

(10) Is the spouse, parent, child, or sibling of the securities administrator or an employee of the department of financial institutions, or resides in the same household as the securities administrator or an employee of the department of financial institutions; or

(11) Directly or indirectly acquires the original information provided to the securities division from a person:

(a) Who is subject to subsection (2) of this section, unless the information is not excluded from that person's use, or provides the securities division with information about possible violations involving that person;

(b) Who is a person described in subsection (8), (9), or (10) of this section; or

(c) With the intent to evade any provision of this chapter.

NEW SECTION. **Sec. 10.** (1) No employer may directly or indirectly terminate, discharge, demote, suspend, threaten, harass, or in any other manner retaliate against, an individual because of any lawful act done by the individual:

(a) In providing information to the state or other law enforcement agency concerning a possible violation of state or federal securities laws, including any

rules or regulations thereunder, that has occurred, is ongoing, or is about to occur;

(b) In initiating, testifying in, or assisting in any investigation or administrative or judicial action of the securities administrator, securities division, or other law enforcement agency based upon or related to such information;

(c) In making disclosures that are required or protected under the Sarbanes-Oxley act of 2002, 15 U.S.C. 7201 et seq.; the securities act of 1933, 15 U.S.C. 77a et seq.; the securities exchange act of 1934, 15 U.S.C. 78a et seq.; 18 U.S.C. 1513(e); any other law, rule, or regulation subject to the jurisdiction of the securities and exchange commission; or chapter 21.20 RCW or a rule adopted thereunder; or

(d) In making disclosures to a person with supervisory authority over the employee, or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct, regarding matters subject to the jurisdiction of the securities administrator, securities division, or the securities and exchange commission.

(2) Notwithstanding subsection (1) of this section, an individual is not protected under this section if:

(a) The individual knowingly or recklessly makes a false, fictitious, or fraudulent statement or misrepresentation;

(b) The individual uses a false writing or document knowing that, or with reckless disregard as to whether, the writing or document contains false, fictitious, or fraudulent information; or

(c) The individual knows that, or has a reckless disregard as to whether, the disclosure is of original information that is false or frivolous.

(3) An individual who alleges any act of retaliation in violation of subsection (1) of this section may bring an action for the relief provided in subsection (6) of this section in the court of original jurisdiction for the county or state where the alleged violation occurs, the individual resides, or the person against whom the action is filed resides or has a principal place of business.

(4) A subpoena requiring the attendance of a witness at a trial or hearing conducted under subsection (3) of this section may be served at any place in the United States, in compliance with applicable court rules and the law of the other jurisdiction.

(5) An action under subsection (3) of this section may not be brought:

(a) More than six years after the date on which the violation of subsection (1) of this section occurred; or

(b) More than three years after the date when facts material to the right of action are known or reasonably should have been known by the employee alleging a violation of subsection (1) of this section. Notwithstanding the above limitations, an action under subsection (3) of this section may not in any circumstance be brought more than 10 years after the date on which the violation occurs.

(6) A court may award as relief for an individual prevailing in an action brought under this section:

(a) Reinstatement with the same compensation, fringe benefits, and seniority status that the individual would have had, but for the retaliation;

(b) Two times the amount of back pay otherwise owed to the individual, with interest;

(c) Compensation for litigation costs, expert witness fees, and reasonable attorneys' fees;

(d) Actual damages;

(e) An injunction to restrain a violation; or

(f) Any combination of these remedies.

(7) Information that could reasonably be expected to reveal the identity of a whistleblower is exempt from public disclosure under chapter 42.56 RCW. This subsection does not limit the ability of any person to present evidence to a grand jury or to share evidence with potential witnesses or defendants in the course of an ongoing criminal investigation.

(8) No person may take any action to impede an individual from communicating directly with the securities division staff about a possible securities law violation, including enforcing, or threatening to enforce, a confidentiality agreement with respect to such communications, except with respect to:

(a) Agreements concerning communications covered by the attorney-client privilege, unless disclosure of that information would otherwise be permitted by an attorney under applicable state attorney conduct rules or otherwise; and

(b) Information obtained in connection with legal representation of a client on whose behalf an individual or the individual's employer or firm are providing services, and the individual is seeking to use the information to make a whistleblower submission for the individual's own benefit, unless disclosure would otherwise be permitted by an attorney pursuant to applicable state attorney conduct rules or otherwise.

(9) The rights and remedies provided for in this chapter may not be waived by any agreement, policy form, or condition of employment, including by a predispute arbitration agreement.

(10) Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any individual under any federal or state law, or under any collective bargaining agreement.

NEW SECTION. **Sec. 11.** The securities administrator may adopt such rules and regulations as may be necessary or appropriate to implement the provisions of this chapter consistent with its purpose.

Sec. 12. RCW 42.56.400 and 2022 c 8 s 2 are each amended to read as follows:

The following information relating to insurance and financial institutions is exempt from disclosure under this chapter:

(1) Records maintained by the board of industrial insurance appeals that are related to appeals of crime victims' compensation claims filed with the board under RCW 7.68.110;

(2) Information obtained and exempted or withheld from public inspection by the health care authority under RCW 41.05.026, whether retained by the authority, transferred to another state purchased health care program by the authority, or transferred by the authority to a technical review committee created to facilitate the development, acquisition, or implementation of state purchased health care under chapter 41.05 RCW;

(3) The names and individual identification data of either all owners or all insureds, or both, received by the insurance commissioner under chapter 48.102 RCW;

(4) Information provided under RCW 48.30A.045 through 48.30A.060;

(5) Information provided under RCW 48.05.510 through 48.05.535, 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600 through 48.46.625;

(6) Examination reports and information obtained by the department of financial institutions from banks under RCW 30A.04.075, from savings banks under RCW 32.04.220, from savings and loan associations under RCW 33.04.110, from credit unions under RCW 31.12.565, from check cashers and sellers under RCW 31.45.030(3), and from securities brokers and investment advisers under RCW 21.20.100, information that could reasonably be expected to reveal the identity of a whistleblower under section 10 of this act, and information received under RCW 43.320.190, all of which are confidential and privileged information;

(7) Information provided to the insurance commissioner under RCW 48.110.040(3);

(8) Documents, materials, or information obtained by the insurance commissioner under RCW 48.02.065, all of which are confidential and privileged;

(9) Documents, materials, or information obtained or provided by the insurance commissioner under RCW 48.31B.015(2) (l) and (m), 48.31B.025, 48.31B.030, 48.31B.035, and 48.31B.036, all of which are confidential and privileged;

(10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and 7.70.140 that, alone or in combination with any other data, may reveal the identity of a claimant, health care provider, health care facility, insuring entity, or self-insurer involved in a particular claim or a collection of claims. For the purposes of this subsection:

(a) "Claimant" has the same meaning as in RCW 48.140.010(2).

(b) "Health care facility" has the same meaning as in RCW 48.140.010(6).

(c) "Health care provider" has the same meaning as in RCW 48.140.010(7).

(d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).

(e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

(11) Documents, materials, or information obtained by the insurance commissioner under RCW 48.135.060;

(12) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.060;

(13) Confidential and privileged documents obtained or produced by the insurance commissioner and identified in RCW 48.37.080;

(14) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.140;

(15) Documents, materials, or information obtained by the insurance commissioner under RCW 48.17.595;

(16) Documents, materials, or information obtained by the insurance commissioner under RCW 48.102.051(1) and 48.102.140 (3) and (7)(a)(ii);

(17) Documents, materials, or information obtained by the insurance commissioner in the commissioner's capacity as receiver under RCW 48.31.025

and 48.99.017, which are records under the jurisdiction and control of the receivership court. The commissioner is not required to search for, log, produce, or otherwise comply with the public records act for any records that the commissioner obtains under chapters 48.31 and 48.99 RCW in the commissioner's capacity as a receiver, except as directed by the receivership court;

(18) Documents, materials, or information obtained by the insurance commissioner under RCW 48.13.151;

(19) Data, information, and documents provided by a carrier pursuant to section 1, chapter 172, Laws of 2010;

(20) Information in a filing of usage-based insurance about the usage-based component of the rate pursuant to RCW 48.19.040(5)(b);

(21) Data, information, and documents that are submitted to the office of the insurance commissioner by an entity providing health care coverage pursuant to RCW 28A.400.275;

(22) Data, information, and documents obtained by the insurance commissioner under RCW 48.29.017;

(23) Information not subject to public inspection or public disclosure under RCW 48.43.730(5);

(24) Documents, materials, or information obtained by the insurance commissioner under chapter 48.05A RCW;

(25) Documents, materials, or information obtained by the insurance commissioner under RCW 48.74.025, 48.74.028, 48.74.100(6), 48.74.110(2) (b) and (c), and 48.74.120 to the extent such documents, materials, or information independently qualify for exemption from disclosure as documents, materials, or information in possession of the commissioner pursuant to a financial conduct examination and exempt from disclosure under RCW 48.02.065;

(26) Nonpublic personal health information obtained by, disclosed to, or in the custody of the insurance commissioner, as provided in RCW 48.02.068;

(27) Data, information, and documents obtained by the insurance commissioner under RCW 48.02.230;

(28) Documents, materials, or other information, including the corporate annual disclosure obtained by the insurance commissioner under RCW 48.195.020;

(29) Findings and orders disapproving acquisition of a trust institution under RCW 30B.53.100(3);

(30) All claims data, including health care and financial related data received under RCW 41.05.890, received and held by the health care authority; and

(31) Contracts not subject to public disclosure under RCW 48.200.040 and 48.43.731.

Sec. 13. RCW 43.320.115 and 2003 c 288 s 2 are each amended to read as follows:

(1) The securities prosecution fund is created in the custody of the state treasurer and shall consist of all fines received by the division of securities under RCW 21.20.400(2), 21.20.110, and 21.20.395 and all undistributed funds from orders of disgorgement and restitution under RCW 21.20.110(8) and 21.20.390(6). No appropriation is required to permit expenditures from this

fund, but the account is subject to allotment procedures under chapter 43.88 RCW.

(2) Expenditures from this fund may be used solely for administering the fund ((~~and~~)), for payment of costs, expenses, and charges incurred in the preparation, initiation, and prosecution of criminal charges for violations of chapters 21.20, 21.30, 19.100, and 19.110 RCW, and for making an award to a whistleblower under section 3 of this act. Only the director or the director's designee may authorize expenditures from the fund.

(3) ((~~Applications~~)) Except for an award to a whistleblower under section 3 of this act, applications for fund expenditures must be submitted by the attorney general or the proper prosecuting attorney to the director. The application must clearly identify the alleged criminal violations identified in subsection (2) of this section and indicate the purpose for which the funds will be used. The application must also certify that any funds received will be expended only for the purpose requested. Funding requests must be approved by the director prior to any expenditure being incurred by the requesting attorney general or prosecuting attorney. At the conclusion of the prosecution, the attorney general or prosecuting attorney shall provide the director with an accounting of fund expenditures, a summary of the case, and certify his or her compliance with any rules adopted by the director relating to the administration of the fund.

(4) If the balance of the securities prosecution fund reaches ((~~three hundred fifty thousand dollars~~)) $1,000,000, all fines received by the division of securities under RCW 21.20.400(2), 21.20.110, and 21.20.395 and all undistributed funds from orders of disgorgement and restitution under RCW 21.20.110(8) and 21.20.390(6) shall be deposited in the financial services regulation fund until such time as the balance in the fund falls below ((~~three hundred fifty thousand dollars~~)) $1,000,000, at which time the fines received by the division of securities under RCW 21.20.400(2), 21.20.110, and 21.20.395 and all undistributed funds from orders of disgorgement and restitution under RCW 21.20.110(8) and 21.20.390(6) shall be deposited to the securities prosecution fund until balance in the fund once again reaches ((~~three hundred fifty thousand dollars~~)) $1,000,000.

NEW SECTION. **Sec. 14.** Sections 1 through 11 of this act constitute a new chapter in Title 21 RCW.

Passed by the House March 3, 2023.
Passed by the Senate April 6, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 150

[Engrossed Substitute House Bill 1394]

SEXUAL OFFENSES BY JUVENILES—SEX OFFENDER REGISTRATION

AN ACT Relating to creating a developmentally appropriate response to youth who commit sexual offenses; amending RCW 18.155.020, 9A.44.128, 9A.44.130, 9A.44.132, 9A.44.140, 13.40.162, 13.40.210, and 9A.44.145; adding a new section to chapter 13.40 RCW; adding a new section to chapter 9A.44 RCW; creating a new section; prescribing penalties; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature finds that successful rehabilitation of youth adjudicated of sex offenses is the best path to reducing recidivism.

(2) The legislature finds that researchers from the Johns Hopkins University and other academic institutions found that treatment for minors convicted of sexual offenses would provide increased public safety, while registration and notification policies for minors convicted of sexual offenses failed to improve community safety. The legislature finds that requiring youth to register as sex offenders is associated with mental health struggles, including depression, anxiety, and suicidal ideation, as well as the increased likelihood of becoming a target of sexual abuse by adults.

(3) The legislature finds that while adults can petition for relief of registration for offenses committed as minors, the legal process is overly cumbersome, expensive, and challenging to the point that many never request removal and remain on the registry their entire lives.

(4) The legislature declares that the response to sex offenses committed by youth should be developmentally appropriate and driven by research. The legislature therefore intends to increase community safety by reforming juvenile sex offender registration policy and related areas to redirect the focus toward practices that increase prevention and promote successful intervention strategies.

NEW SECTION. **Sec. 2.** A new section is added to chapter 13.40 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the department shall develop and implement a grant program that allows defense attorneys and counties to apply for funding for sex offender evaluation and treatment programs.

(2) Subject to the availability of amounts appropriated for this specific purpose, the department shall provide funding to counties for process mapping, site assessment, and training for additional sex offender treatment modalities such as multisystemic therapy-problem sexual behavior or problematic sexual behavior-cognitive behavioral therapy.

Sec. 3. RCW 18.155.020 and 2020 c 266 s 1 are each amended to read as follows:

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

(1) "Advisory committee" means the sex offender treatment providers advisory committee established under RCW 18.155.100.

(2) "Certified sex offender treatment provider" means an individual who is a licensed psychologist, licensed marriage and family therapist, licensed social worker, licensed mental health counselor, or psychiatrist as defined in RCW 71.05.020, who is certified to examine and treat sex offenders pursuant to chapters 9.94A and 13.40 RCW and sexually violent predators under chapter 71.09 RCW.

(3) "Certified affiliate sex offender treatment provider" means an individual who is a licensed psychologist, licensed marriage and family therapist, licensed social worker, licensed mental health counselor, licensed mental health counselor associate, licensed independent clinical social worker associate, licensed advanced social worker associate, licensed marriage and family

therapist associate, or psychiatrist as defined in RCW 71.05.020, who is certified as an affiliate to examine and treat sex offenders pursuant to chapters 9.94A and 13.40 RCW and sexually violent predators under chapter 71.09 RCW under the supervision of a qualified supervisor.

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

(5)(a) "Qualified supervisor" means:

(i) A person who meets the requirements for certification as a sex offender treatment provider;

(ii) A person who meets a lifetime experience threshold of having provided at least two thousand hours of direct sex offender specific treatment and assessment services and who continues to maintain professional involvement in the field; or

(iii) A person who meets a lifetime experience threshold of at least two years of full-time work in a state-run facility or state-run treatment program providing direct sex offender specific treatment and assessment services and who continues to maintain professional involvement in the field.

(b) A qualified supervisor not credentialed by the department as a sex offender treatment provider must sign and submit to the department an attestation form provided by the department stating under penalty of perjury that the qualified supervisor has met the requisite education, training, or experience requirements and that the qualified supervisor is able to substantiate the qualified supervisor's claim to have met the requirements for education, training, or experience.

(6) "Secretary" means the secretary of health.

(7) "Sex offender treatment provider" or "affiliate sex offender treatment provider" means a person who counsels or treats sex offenders accused of or convicted of a sex offense as defined by RCW 9.94A.030.

Sec. 4. RCW 9A.44.128 and 2015 c 261 s 2 are each amended to read as follows:

For the purposes of RCW 9A.44.130 through 9A.44.145, 10.01.200, 43.43.540, 70.48.470, and 72.09.330, the following definitions apply:

(1) "Business day" means any day other than Saturday, Sunday, or a legal local, state, or federal holiday.

(2) "Conviction" means any adult conviction or juvenile adjudication for a sex offense or kidnapping offense.

(3) "Disqualifying offense" means a conviction for: Any offense that is a felony; a sex offense as defined in this section; a crime against children or persons as defined in RCW 43.43.830(7) and 9.94A.411(2)(a); an offense with a domestic violence designation as provided in RCW 10.99.020; permitting the commercial sexual abuse of a minor as defined in RCW 9.68A.103; or any violation of chapter 9A.88 RCW.

(4) "Employed" or "carries on a vocation" means employment that is full time or part time for a period of time exceeding fourteen days, or for an aggregate period of time exceeding thirty days during any calendar year. A person is employed or carries on a vocation whether the person's employment is financially compensated, volunteered, or for the purpose of government or educational benefit.

(5) "Fixed residence" means a building that a person lawfully and habitually uses as living quarters a majority of the week. Uses as living quarters means to

conduct activities consistent with the common understanding of residing, such as sleeping; eating; keeping personal belongings; receiving mail; and paying utilities, rent, or mortgage. A nonpermanent structure including, but not limited to, a motor home, travel trailer, camper, or boat may qualify as a residence provided it is lawfully and habitually used as living quarters a majority of the week, primarily kept at one location with a physical address, and the location it is kept at is either owned or rented by the person or used by the person with the permission of the owner or renter. A shelter program may qualify as a residence provided it is a shelter program designed to provide temporary living accommodations for the homeless, provides an offender with a personally assigned living space, and the offender is permitted to store belongings in the living space.

(6) "In the community" means residing outside of confinement or incarceration for a disqualifying offense.

(7) "Institution of higher education" means any public or private institution dedicated to postsecondary education, including any college, university, community college, trade, or professional school.

(8) "Kidnapping offense" means:

(a) The crimes of kidnapping in the first degree, kidnapping in the second degree, and unlawful imprisonment, as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent;

(b) Any offense that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a kidnapping offense under this subsection;

(c) Any federal or out-of-state conviction for: An offense for which the person would be required to register as a kidnapping offender if residing in the state of conviction; or, if not required to register in the state of conviction, an offense that under the laws of this state would be classified as a kidnapping offense under this subsection; and

(d) Any tribal conviction for an offense for which the person would be required to register as a kidnapping offender while residing in the reservation of conviction; or, if not required to register in the reservation of conviction, an offense that under the laws of this state would be classified as a kidnapping offense under this subsection.

(9) "Lacks a fixed residence" means the person does not have a living situation that meets the definition of a fixed residence and includes, but is not limited to, a shelter program designed to provide temporary living accommodations for the homeless, an outdoor sleeping location, or locations where the person does not have permission to stay.

(10) "Sex offense" means:

(a) Any offense defined as a sex offense by RCW 9.94A.030;

(b) Any violation under RCW 9A.44.096 (sexual misconduct with a minor in the second degree);

(c) Any violation under RCW 9A.40.100(1)(b)(ii) (trafficking);

(d) Any violation under RCW 9.68A.090 (communication with a minor for immoral purposes);

(e) A violation under RCW 9A.88.070 (promoting prostitution in the first degree) or RCW 9A.88.080 (promoting prostitution in the second degree) if the person has a prior conviction for one of these offenses;

(f) Any violation under RCW 9A.40.100(1)(a)(i)(A) (III) or (IV) or (a)(i)(B);

(g) Any gross misdemeanor that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a sex offense under RCW 9.94A.030 or this subsection;

(h) Any out-of-state conviction for an offense for which the person would be required to register as a sex offender while residing in the state of conviction; or, if not required to register in the state of conviction, an offense that under the laws of this state would be classified as a sex offense under this subsection;

(i) Any federal conviction classified as a sex offense under 42 U.S.C. Sec. 16911 (SORNA);

(j) Any military conviction for a sex offense. This includes sex offenses under the uniform code of military justice, as specified by the United States secretary of defense;

(k) Any conviction in a foreign country for a sex offense if it was obtained with sufficient safeguards for fundamental fairness and due process for the accused under guidelines or regulations established pursuant to 42 U.S.C. Sec. 16912;

(l) Any tribal conviction for an offense for which the person would be required to register as a sex offender while residing in the reservation of conviction; or, if not required to register in the reservation of conviction, an offense that under the laws of this state would be classified as a sex offense under this subsection.

(11) "School" means a public or private school regulated under Title 28A RCW or chapter 72.40 RCW.

(12) "Student" means a person who is enrolled, on a full-time or part-time basis, in any school or institution of higher education.

(13) "Adult" means a person who is 18 years of age or older on the offense date or who is convicted of and sentenced for an offense in adult court pursuant to RCW 13.04.030(1)(e)(v) or 13.40.110.

Sec. 5. RCW 9A.44.130 and 2017 c 174 s 3 are each amended to read as follows:

(1)(a) Any adult ((~~or juvenile~~)) residing whether or not the person has a fixed residence, or who is a student, is employed, or carries on a vocation in this state who has been found to have committed or has been convicted of any sex offense or kidnapping offense, or who has been found not guilty by reason of insanity under chapter 10.77 RCW of committing any sex offense or kidnapping offense, shall register with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation, or as otherwise specified in this section.

(b) Any person who is not an adult residing whether or not the person has a fixed residence, or who is a student, is employed, or carries on a vocation in this state shall register with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation, or as otherwise specified in this section if the person:

(i) Committed a class A or class B sex offense when the person was age 16 or 17 and did not receive a special sex offender disposition alternative under RCW 13.40.162;

(ii) Committed rape in the first degree when the person was age 14 or 15;

(iii) Committed rape in the second degree when the person was age 14 or 15 and the person did not receive a special sex offender disposition alternative under RCW 13.40.162;

(iv) Committed a sex offense and, on the offense date, the juvenile had a prior conviction for a sex offense as defined in RCW 9A.44.128 or had a deferred disposition for a sex offense pursuant to RCW 13.40.127;

(v) Has a special sex offender disposition alternative under RCW 13.40.162 revoked for:

(A) A class A or class B sex offense that was committed when the person was age 16 or 17; or

(B) A rape in the second degree offense that was committed when the person was age 14 or 15;

(vi) Has an out-of-state, tribal, or federal conviction for a sex offense;

(vii) Committed a kidnapping offense; or

(viii) Is found by the court based on clear, cogent, and convincing evidence to:

(A) Be age 14 through 17 on the offense date;

(B) Not have received a special sex offender disposition alternative under RCW 13.40.162 for the offense triggering possible registration or have had a special sex offender disposition alternative under RCW 13.40.162 revoked for that offense;

(C) Have been adjudicated of multiple sex offenses involving two or more distinct victims in separate counts or separate causes;

(D) Present a serious threat to public safety after the last date of release from confinement, including full-time residential treatment, if any, or entry of disposition; and

(E) Require registration in order to lessen the serious threat to public safety.

(c) When a person required to register under this section is in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility as a result of a sex offense or kidnapping offense, the person shall also register at the time of release from custody with an official designated by the agency that has jurisdiction over the person.

(((~~(b)~~))) (d) Any adult or juvenile who is required to register under (((~~(a)~~))) (b) of this subsection must give notice to the county sheriff of the county with whom the person is registered within three business days:

(i) Prior to arriving at a school or institution of higher education to attend classes;

(ii) Prior to starting work at an institution of higher education; or

(iii) After any termination of enrollment or employment at a school or institution of higher education.

(2)(a) A person required to register under this section must provide the following information when registering: (i) Name and any aliases used; (ii) complete and accurate residential address or, if the person lacks a fixed residence, where he or she plans to stay; (iii) date and place of birth; (iv) place of

employment; (v) crime for which convicted; (vi) date and place of conviction; (vii) social security number; (viii) photograph; and (ix) fingerprints.

(b) A person may be required to update any of the information required in this subsection in conjunction with any address verification conducted by the county sheriff or as part of any notice required by this section.

(c) A photograph or copy of an individual's fingerprints, which may include palmprints may be taken at any time to update an individual's file.

(3) Any person required to register under this section who intends to travel outside the United States must provide, by certified mail, with return receipt requested, or in person, signed written notice of the plan to travel outside the country to the county sheriff of the county with whom the person is registered at least twenty-one days prior to travel. The notice shall include the following information: (a) Name; (b) passport number and country; (c) destination; (d) itinerary details including departure and return dates; (e) means of travel; and (f) purpose of travel. If the offender subsequently cancels or postpones travel outside the United States, the offender must notify the county sheriff not later than three days after cancellation or postponement of the intended travel outside the United States or on the departure date provided in the notification, whichever is earlier. The county sheriff shall notify the United States marshals service as soon as practicable after receipt of the notification. In cases of unexpected travel due to family or work emergencies, or for offenders who travel routinely across international borders for work-related purposes, the notice must be submitted in person at least twenty-four hours prior to travel to the sheriff of the county where such offenders are registered with a written explanation of the circumstances that make compliance with this subsection (3) impracticable.

(4)(a) Offenders shall register with the county sheriff within the following deadlines:

(i) OFFENDERS IN CUSTODY. Sex offenders or kidnapping offenders who are in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, must register at the time of release from custody with an official designated by the agency that has jurisdiction over the offender. The agency shall within three days forward the registration information to the county sheriff for the county of the offender's anticipated residence. The offender must also register within three business days from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. The agency that has jurisdiction over the offender shall provide notice to the offender of the duty to register.

When the agency with jurisdiction intends to release an offender with a duty to register under this section, and the agency has knowledge that the offender is eligible for developmental disability services from the department of social and health services, the agency shall notify the division of developmental disabilities of the release. Notice shall occur not more than thirty days before the offender is to be released. The agency and the division shall assist the offender in meeting the initial registration requirement under this section. Failure to provide such assistance shall not constitute a defense for any violation of this section.

When a person required to register under this section is in the custody of the state department of corrections or a local corrections or probations agency and

has been approved for partial confinement as defined in RCW 9.94A.030, the person must register at the time of transfer to partial confinement with the official designated by the agency that has jurisdiction over the offender. The agency shall within three days forward the registration information to the county sheriff for the county in which the offender is in partial confinement. The offender must also register within three business days from the time of the termination of partial confinement or release from confinement with the county sheriff for the county of the person's residence. The agency that has jurisdiction over the offender shall provide notice to the offender of the duty to register.

(ii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders or kidnapping offenders who are in the custody of the United States bureau of prisons or other federal or military correctional agency must register within three business days from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation.

(iii) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders who are convicted of a sex offense and kidnapping offenders who are convicted for a kidnapping offense but who are not sentenced to serve a term of confinement immediately upon sentencing shall report to the county sheriff to register within three business days of being sentenced.

(iv) OFFENDERS WHO ARE NEW RESIDENTS, TEMPORARY RESIDENTS, OR RETURNING WASHINGTON RESIDENTS. Sex offenders and kidnapping offenders who move to Washington state from another state or a foreign country must register within three business days of establishing residence or reestablishing residence if the person is a former Washington resident. If the offender is under the jurisdiction of an agency of this state when the offender moves to Washington, the agency shall provide notice to the offender of the duty to register.

Sex offenders and kidnapping offenders who are visiting Washington state and intend to reside or be present in the state for ten days or more shall register his or her temporary address or where he or she plans to stay with the county sheriff of each county where the offender will be staying within three business days of arrival. Registration for temporary residents shall include the information required by subsection (2)(a) of this section, except the photograph and fingerprints.

(v) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult or juvenile who has been found not guilty by reason of insanity under chapter 10.77 RCW of committing a sex offense or a kidnapping offense and who is in custody, as a result of that finding, of the state department of social and health services, must register within three business days from the time of release with the county sheriff for the county of the person's residence. The state department of social and health services shall provide notice to the adult or juvenile in its custody of the duty to register.

(vi) OFFENDERS WHO LACK A FIXED RESIDENCE. Any person who lacks a fixed residence and leaves the county in which he or she is registered and enters and remains within a new county for twenty-four hours is required to register with the county sheriff not more than three business days after entering the county and provide the information required in subsection (2)(a) of this section.

(vii) OFFENDERS WHO LACK A FIXED RESIDENCE AND WHO ARE UNDER SUPERVISION. Offenders who lack a fixed residence and who are under the supervision of the department shall register in the county of their supervision.

(viii) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND SCHOOL IN ANOTHER STATE. Offenders required to register in Washington, who move to another state, or who work, carry on a vocation, or attend school in another state shall register a new address, fingerprints, and photograph with the new state within three business days after establishing residence, or after beginning to work, carry on a vocation, or attend school in the new state. The person must also send written notice within three business days of moving to the new state or to a foreign country to the county sheriff with whom the person last registered in Washington state. The county sheriff shall promptly forward this information to the Washington state patrol.

(b) The county sheriff shall not be required to determine whether the person is living within the county.

(c) An arrest on charges of failure to register, service of an information, or a complaint for a violation of RCW 9A.44.132, or arraignment on charges for a violation of RCW 9A.44.132, constitutes actual notice of the duty to register. Any person charged with the crime of failure to register under RCW 9A.44.132 who asserts as a defense the lack of notice of the duty to register shall register within three business days following actual notice of the duty through arrest, service, or arraignment. Failure to register as required under this subsection (4)(c) constitutes grounds for filing another charge of failing to register. Registering following arrest, service, or arraignment on charges shall not relieve the offender from criminal liability for failure to register prior to the filing of the original charge.

(5)(a) If any person required to register pursuant to this section changes his or her residence address within the same county, the person must provide, by certified mail, with return receipt requested or in person, signed written notice of the change of address to the county sheriff within three business days of moving.

(b) If any person required to register pursuant to this section moves to a new county, within three business days of moving the person must register with the county sheriff of the county into which the person has moved and provide, by certified mail, with return receipt requested or in person, signed written notice of the change of address to the county sheriff with whom the person last registered. The county sheriff with whom the person last registered is responsible for address verification pursuant to RCW 9A.44.135 until the person completes registration of his or her new residence address.

(6)(a) Any person required to register under this section who lacks a fixed residence shall provide signed written notice to the sheriff of the county where he or she last registered within three business days after ceasing to have a fixed residence. The notice shall include the information required by subsection (2)(a) of this section, except the photograph, fingerprints, and palmprints. The county sheriff may, for reasonable cause, require the offender to provide a photograph and fingerprints. The sheriff shall forward this information to the sheriff of the county in which the person intends to reside, if the person intends to reside in another county.

(b) A person who lacks a fixed residence must report weekly, in person, to the sheriff of the county where he or she is registered. The weekly report shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. The person must keep an accurate accounting of where he or she stays during the week and provide it to the county sheriff upon request. The lack of a fixed residence is a factor that may be considered in determining an offender's risk level and shall make the offender subject to disclosure of information to the public at large pursuant to RCW 4.24.550.

(c) If any person required to register pursuant to this section does not have a fixed residence, it is an affirmative defense to the charge of failure to register, that he or she provided written notice to the sheriff of the county where he or she last registered within three business days of ceasing to have a fixed residence and has subsequently complied with the requirements of subsection((~~s~~)) (4)(a)(vi) or (vii) ((~~and (6)~~)) of this section and this subsection. To prevail, the person must prove the defense by a preponderance of the evidence.

(7) A sex offender subject to registration requirements under this section who applies to change his or her name under RCW 4.24.130 or any other law shall submit a copy of the application to the county sheriff of the county of the person's residence and to the state patrol not fewer than five days before the entry of an order granting the name change. No sex offender under the requirement to register under this section at the time of application shall be granted an order changing his or her name if the court finds that doing so will interfere with legitimate law enforcement interests, except that no order shall be denied when the name change is requested for religious or legitimate cultural reasons or in recognition of marriage or dissolution of marriage. A sex offender under the requirement to register under this section who receives an order changing his or her name shall submit a copy of the order to the county sheriff of the county of the person's residence and to the state patrol within three business days of the entry of the order.

(8) Except as may otherwise be provided by law, nothing in this section shall impose any liability upon a peace officer, including a county sheriff, or law enforcement agency, for failing to release information authorized under this section.

Sec. 6. RCW 9A.44.132 and 2019 c 443 s 4 are each amended to read as follows:

(1) A person commits the crime of failure to register as a sex offender if the person has a duty to register under RCW 9A.44.130 for a felony sex offense and knowingly fails to comply with any of the requirements of RCW 9A.44.130.

(a) The failure to register as a sex offender pursuant to this subsection is a class C felony if the person has a duty to register under RCW 9A.44.130(1)(a) and:

(i) It is the person's first conviction for a felony failure to register; or

(ii) The person has previously been convicted of a felony failure to register as a sex offender in this state or pursuant to the laws of another state, or pursuant to federal law.

(b) If a person has a duty to register under RCW 9A.44.130(1)(a) and has been convicted of a felony failure to register as a sex offender in this state or pursuant to the laws of another state, or pursuant to federal law, on two or more prior occasions, the failure to register under this subsection is a class B felony.

(c) The failure to register as a sex offender is a gross misdemeanor if the person has a duty to register under RCW 9A.44.130(1)(b).

(2) A person is guilty of failure to register as a sex offender if the person has a duty to register under RCW 9A.44.130 for a sex offense other than a felony and knowingly fails to comply with any of the requirements of RCW 9A.44.130. The failure to register as a sex offender under this subsection is a gross misdemeanor.

(3) A person commits the crime of failure to register as a kidnapping offender if the person has a duty to register under RCW 9A.44.130 for a kidnapping offense and knowingly fails to comply with any of the requirements of RCW 9A.44.130.

(a) If the person has a duty to register for a felony kidnapping offense, the failure to register as a kidnapping offender is a class C felony.

(b) If the person has a duty to register for a kidnapping offense other than a felony, the failure to register as a kidnapping offender is a gross misdemeanor.

(4) Unless relieved of the duty to register pursuant to RCW 9A.44.141 and 9A.44.142, a violation of this section is an ongoing offense for purposes of the statute of limitations under RCW 9A.04.080.

Sec. 7. RCW 9A.44.140 and 2020 c 249 s 2 are each amended to read as follows:

The duty to register under RCW 9A.44.130 shall continue for the duration provided in this section.

(1) For ((~~a person~~)) an adult convicted in this state of a class A felony, or ((~~a person~~)) an adult convicted of any sex offense or kidnapping offense who has one or more prior convictions for a sex offense or kidnapping offense, the duty to register shall continue indefinitely.

(2) For ((~~a person~~)) an adult convicted in this state of a class B felony who does not have one or more prior convictions for a sex offense or kidnapping offense, the duty to register shall end fifteen years after the last date of release from confinement, if any, (including full-time residential treatment) pursuant to the conviction, or entry of the judgment and sentence, if the ((~~person~~)) adult has spent fifteen consecutive years in the community without being convicted of a disqualifying offense during that time period.

(3) For ((~~a person~~)) an adult convicted in this state of a class C felony, a violation of RCW 9.68A.090 or 9A.44.096, or an attempt, solicitation, or conspiracy to commit a class C felony, and the ((~~person~~)) adult does not have one or more prior convictions for a sex offense or kidnapping offense, the duty to register shall end ten years after the last date of release from confinement, if any, (including full-time residential treatment) pursuant to the conviction, or entry of the judgment and sentence, if the ((~~person~~)) adult has spent ten consecutive years in the community without being convicted of a disqualifying offense during that time period.

(4)(a) For a person required to register under RCW 9A.44.130(1)(b), the duty to register will end three years after the last date of release from confinement, including full-time residential treatment, if any, or entry of disposition if the person is required to register for a class A offense committed at age 15, 16, or 17.

(b) For a person required to register under RCW 9A.44.130(1)(b) who does not meet the description provided in subsection (4)(a) of this section, the duty to

register will end two years after the last date of release from confinement, including full-time residential treatment, if any, or entry of disposition.

(5) Except as provided in RCW 9A.44.142, for a person required to register for a federal, tribal, or out-of-state conviction, the duty to register shall continue indefinitely.

(((~~(5)~~))) (6) For a person who is or has been determined to be a sexually violent predator pursuant to chapter 71.09 RCW, the duty to register shall continue for the person's lifetime.

(((~~(6)~~))) (7) Nothing in this section prevents a person from being relieved of the duty to register under RCW 9A.44.142, 9A.44.143, and 13.40.162.

(((~~(7)~~))) (8) Nothing in RCW 9.94A.637 relating to discharge of an offender shall be construed as operating to relieve the offender of his or her duty to register pursuant to RCW 9A.44.130.

(((~~(8)~~))) (9) For purposes of determining whether a person has been convicted of more than one sex offense, failure to register as a sex offender or kidnapping offender is not a sex or kidnapping offense.

(((~~(9)~~))) (10) The provisions of this section and RCW 9A.44.141 through 9A.44.143 apply equally to a person who has been found not guilty by reason of insanity under chapter 10.77 RCW of a sex offense or kidnapping offense.

Sec. 8. RCW 13.40.162 and 2020 c 249 s 1 are each amended to read as follows:

(1) A juvenile offender is eligible for the special sex offender disposition alternative when:

(a) The offender is found to have committed a sex offense, other than a sex offense that is also a serious violent offense as defined by RCW 9.94A.030, and the offender has no history of a prior sex offense; or

(b) The offender is found to have committed assault in the fourth degree with sexual motivation, and the offender has no history of a prior sex offense.

(2) If the court finds the offender is eligible for this alternative, the court, on its own motion or the motion of the state or the respondent, may order an examination to determine whether the respondent is amenable to treatment.

(a) The report of the examination shall include at a minimum the following:

(i) The respondent's version of the facts and the official version of the facts;

(ii) The respondent's offense history;

(iii) An assessment of problems in addition to alleged deviant behaviors;

(iv) The respondent's social, educational, and employment situation;

(v) Other evaluation measures used.

The report shall set forth the sources of the evaluator's information.

(b) The examiner shall assess and report regarding the respondent's amenability to treatment and relative risk to the community. A proposed treatment plan shall be provided and shall include, at a minimum:

(i) The frequency and type of contact between the offender and therapist;

(ii) Specific issues to be addressed in the treatment and description of planned treatment modalities;

(iii) Monitoring plans, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members, legal guardians, or others;

(iv) Anticipated length of treatment; and

(v) Recommended crime-related prohibitions.

(c) The court on its own motion may order, or on a motion by the state shall order, a second examination regarding the offender's amenability to treatment. The evaluator shall be selected by the party making the motion. The defendant shall pay the cost of any second examination ordered unless the court finds the defendant to be indigent in which case the state shall pay the cost.

(3) After receipt of reports of the examination, the court shall then consider whether the offender and the community will benefit from use of this special sex offender disposition alternative and consider the victim's opinion whether the offender should receive a treatment disposition under this section. If the court determines that this special sex offender disposition alternative is appropriate, then the court shall impose a determinate disposition within the standard range for the offense, or if the court concludes, and enters reasons for its conclusions, that such disposition would cause a manifest injustice, the court shall impose a disposition under option D, and the court may suspend the execution of the disposition and place the offender on community supervision for at least two years.

(4) As a condition of the suspended disposition, the court may impose the conditions of community supervision and other conditions, including up to thirty days of confinement and requirements that the offender do any one or more of the following:

(a) Devote time to a specific education, employment, or occupation;

(b) Undergo available outpatient sex offender treatment for up to two years, or inpatient sex offender treatment not to exceed the standard range of confinement for that offense. A community mental health center may not be used for such treatment unless it has an appropriate program designed for sex offender treatment. The respondent shall not change sex offender treatment providers or treatment conditions without first notifying the prosecutor, the probation counselor, and the court, and shall not change providers without court approval after a hearing if the prosecutor or probation counselor object to the change;

(c) Remain within prescribed geographical boundaries and notify the court or the probation counselor prior to any change in the offender's address, educational program, or employment;

(d) Report to the prosecutor and the probation counselor prior to any change in a sex offender treatment provider. This change shall have prior approval by the court;

(e) Report as directed to the court and a probation counselor;

(f) Pay all court-ordered legal financial obligations, perform community restitution, or any combination thereof;

(g) Make restitution to the victim for the cost of any counseling reasonably related to the offense; or

(h) Comply with the conditions of any court-ordered probation bond.

(5) If the court orders twenty-four hour, continuous monitoring of the offender while on probation, the court shall include the basis for this condition in its findings.

(6)(a) The court must order the offender not to attend the public or approved private elementary, middle, or high school attended by the victim or the victim's siblings.

(b) The parents or legal guardians of the offender are responsible for transportation or other costs associated with the offender's change of school that would otherwise be paid by the school district.

(c) The court shall send notice of the disposition and restriction on attending the same school as the victim or victim's siblings to the public or approved private school the juvenile will attend, if known, or if unknown, to the approved private schools and the public school district board of directors of the district in which the juvenile resides or intends to reside. This notice must be sent at the earliest possible date but not later than ten calendar days after entry of the disposition.

(7) ((~~For offenders required to register under RCW 9A.44.130, at the end of the supervision ordered under this disposition alternative, there is a presumption that the offender is sufficiently rehabilitated to warrant removal from the central registry of sex offenders. The court shall relieve the offender's duty to register unless the court finds that the offender is not sufficiently rehabilitated to warrant removal and may consider the following factors:~~

~~(a) The nature of the offense committed, including the number of victims and the length of the offense history;~~

~~(b) Any subsequent criminal history of the juvenile;~~

~~(c) The juvenile's compliance with supervision requirements;~~

~~(d) The length of time since the charged incident occurred;~~

~~(e) Any input from community corrections officers, juvenile parole or probation officers, law enforcement, or treatment providers;~~

~~(f) The juvenile's participation in sex offender treatment;~~

~~(g) The juvenile's participation in other treatment and rehabilitative programs;~~

~~(h) The juvenile's stability in employment and housing;~~

~~(i) The juvenile's community and personal support system;~~

~~(j) Any risk assessments or evaluations prepared by a qualified professional related to the juvenile;~~

~~(k) Any updated polygraph examination completed by the juvenile;~~

~~(l) Any input of the victim; and~~

~~(m) Any other factors the court may consider relevant.~~

~~(8)~~))(a) The sex offender treatment provider shall submit quarterly reports on the respondent's progress in treatment to the court and the parties. The reports shall reference the treatment plan and include at a minimum the following: Dates of attendance, respondent's compliance with requirements, treatment activities, the respondent's relative progress in treatment, and any other material specified by the court at the time of the disposition.

(b) At the time of the disposition, the court may set treatment review hearings as the court considers appropriate.

(c) Except as provided in this subsection, examinations and treatment ordered pursuant to this subsection shall be conducted by qualified professionals as described under (d) of this subsection, certified sex offender treatment providers, or certified affiliate sex offender treatment providers under chapter 18.155 RCW.

(d) A sex offender therapist who examines or treats a juvenile sex offender pursuant to this subsection does not have to be certified by the department of health pursuant to chapter 18.155 RCW if the therapist is a professional licensed

under chapter 18.225 or 18.83 RCW and the treatment employed is evidence-based for sex offender treatment, or if the court finds that: (i) The offender has already moved to another state or plans to move to another state for reasons other than circumventing the certification requirements; (ii) no certified sex offender treatment providers or certified affiliate sex offender treatment providers are available for treatment within a reasonable geographical distance of the offender's home; and (iii) the evaluation and treatment plan comply with this subsection and the rules adopted by the department of health.

((~~(9)~~)) (8)(a) If the offender violates any condition of the disposition or the court finds that the respondent is failing to make satisfactory progress in treatment, the court may revoke the suspension and order execution of the disposition or the court may impose a penalty of up to thirty days confinement for violating conditions of the disposition.

(b) The court may order both execution of the disposition and up to thirty days confinement for the violation of the conditions of the disposition.

(c) The court shall give credit for any confinement time previously served if that confinement was for the offense for which the suspension is being revoked.

((~~(10)~~)) (9) For purposes of this section, "victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged. "Victim" may also include a known parent or guardian of a victim who is a minor child unless the parent or guardian is the perpetrator of the offense.

((~~(11)~~)) (10) A disposition entered under this section is not appealable under RCW 13.40.230.

Sec. 9. RCW 13.40.210 and 2017 3rd sp.s. c 6 s 609 are each amended to read as follows:

(1) The secretary shall set a release date for each juvenile committed to its custody. The release date shall be within the prescribed range to which a juvenile has been committed under RCW 13.40.0357 or 13.40.030 except as provided in RCW 13.40.320 concerning offenders the department determines are eligible for the juvenile offender basic training camp program. Such dates shall be determined prior to the expiration of sixty percent of a juvenile's minimum term of confinement included within the prescribed range to which the juvenile has been committed. The secretary shall release any juvenile committed to the custody of the department within four calendar days prior to the juvenile's release date or on the release date set under this chapter. Days spent in the custody of the department shall be tolled by any period of time during which a juvenile has absented himself or herself from the department's supervision without the prior approval of the secretary or the secretary's designee.

(2) The secretary shall monitor the average daily population of the state's juvenile residential facilities. When the secretary concludes that in-residence population of residential facilities exceeds one hundred five percent of the rated bed capacity specified in statute, or in absence of such specification, as specified by the department in rule, the secretary may recommend reductions to the governor. On certification by the governor that the recommended reductions are necessary, the secretary has authority to administratively release a sufficient number of offenders to reduce in-residence population to one hundred percent of rated bed capacity. The secretary shall release those offenders who have served the greatest proportion of their sentence. However, the secretary may deny

release in a particular case at the request of an offender, or if the secretary finds that there is no responsible custodian, as determined by the department, to whom to release the offender, or if the release of the offender would pose a clear danger to society. The department shall notify the committing court of the release at the time of release if any such early releases have occurred as a result of excessive in-residence population. In no event shall an offender adjudicated of a violent offense be granted release under the provisions of this subsection.

(3)(a) Following the release of any juvenile under subsection (1) of this section, the secretary may require the juvenile to comply with a program of parole to be administered by the department in his or her community which shall last no longer than eighteen months, except that in the case of a juvenile sentenced for ((~~rape in the first or second degree, rape of a child in the first or second degree, child molestation in the first degree, or indecent liberties with forcible compulsion,~~)) a sex offense as defined under RCW 9.94A.030 the period of parole shall be twenty-four months and, in the discretion of the secretary, may be up to thirty-six months when the secretary finds that an additional period of parole is necessary and appropriate in the interests of public safety or to meet the ongoing needs of the juvenile. A parole program is mandatory for offenders released under subsection (2) of this section and for offenders who receive a juvenile residential commitment sentence for theft of a motor vehicle, possession of a stolen motor vehicle, or taking a motor vehicle without permission 1. A juvenile adjudicated for unlawful possession of a firearm, possession of a stolen firearm, theft of a firearm, or drive-by shooting may participate in aggression replacement training, functional family therapy, or functional family parole aftercare if the juvenile meets eligibility requirements for these services. The decision to place an offender in an evidence-based parole program shall be based on an assessment by the department of the offender's risk for reoffending upon release and an assessment of the ongoing treatment needs of the juvenile. The department shall prioritize available parole resources to provide supervision and services to offenders at moderate to high risk for reoffending.

(b) The secretary shall, for the period of parole, facilitate the juvenile's reintegration into his or her community and to further this goal shall require the juvenile to refrain from possessing a firearm or using a deadly weapon and refrain from committing new offenses and may require the juvenile to: (i) Undergo available medical, psychiatric, drug and alcohol, sex offender, mental health, and other offense-related treatment services; (ii) report as directed to a parole officer and/or designee; (iii) pursue a course of study, vocational training, or employment; (iv) notify the parole officer of the current address where he or she resides; (v) be present at a particular address during specified hours; (vi) remain within prescribed geographical boundaries; (vii) submit to electronic monitoring; (viii) refrain from using illegal drugs and alcohol, and submit to random urinalysis when requested by the assigned parole officer; (ix) refrain from contact with specific individuals or a specified class of individuals; (x) meet other conditions determined by the parole officer to further enhance the juvenile's reintegration into the community; (xi) pay any court-ordered fines or restitution; and (xii) perform community restitution. Community restitution for the purpose of this section means compulsory service, without compensation, performed for the benefit of the community by the offender. Community

restitution may be performed through public or private organizations or through work crews.

(c) The secretary may further require up to twenty-five percent of the highest risk juvenile offenders who are placed on parole to participate in an intensive supervision program. Offenders participating in an intensive supervision program shall be required to comply with all terms and conditions listed in (b) of this subsection and shall also be required to comply with the following additional terms and conditions: (i) Obey all laws and refrain from any conduct that threatens public safety; (ii) report at least once a week to an assigned community case manager; and (iii) meet all other requirements imposed by the community case manager related to participating in the intensive supervision program. As a part of the intensive supervision program, the secretary may require day reporting.

(d) After termination of the parole period, the juvenile shall be discharged from the department's supervision.

(4)(a) The department may also modify parole for violation thereof. If, after affording a juvenile all of the due process rights to which he or she would be entitled if the juvenile were an adult, the secretary finds that a juvenile has violated a condition of his or her parole, the secretary shall order one of the following which is reasonably likely to effectuate the purpose of the parole and to protect the public: (i) Continued supervision under the same conditions previously imposed; (ii) intensified supervision with increased reporting requirements; (iii) additional conditions of supervision authorized by this chapter; (iv) except as provided in (a)(v) and (vi) of this subsection, imposition of a period of confinement not to exceed thirty days in a facility operated by or pursuant to a contract with the state of Washington or any city or county for a portion of each day or for a certain number of days each week with the balance of the days or weeks spent under supervision; (v) the secretary may order any of the conditions or may return the offender to confinement for the remainder of the sentence range if the offense for which the offender was sentenced is rape in the first or second degree, rape of a child in the first or second degree, child molestation in the first degree, indecent liberties with forcible compulsion, or a sex offense that is also a serious violent offense as defined by RCW 9.94A.030; and (vi) the secretary may order any of the conditions or may return the offender to confinement for the remainder of the sentence range if the youth has completed the basic training camp program as described in RCW 13.40.320.

(b) The secretary may modify parole and order any of the conditions or may return the offender to confinement for up to twenty-four weeks if the offender was sentenced for a sex offense as defined under RCW 9A.44.128 and is known to have violated the terms of parole. Confinement beyond thirty days is intended to only be used for a small and limited number of sex offenders. It shall only be used when other graduated sanctions or interventions have not been effective or the behavior is so egregious it warrants the use of the higher level intervention and the violation: (i) Is a known pattern of behavior consistent with a previous sex offense that puts the youth at high risk for reoffending sexually; (ii) consists of sexual behavior that is determined to be predatory as defined in RCW 71.09.020; or (iii) requires a review under chapter 71.09 RCW, due to a recent overt act. The total number of days of confinement for violations of parole conditions during the parole period shall not exceed the number of days

provided by the maximum sentence imposed by the disposition for the underlying offense pursuant to RCW 13.40.0357. The department shall not aggregate multiple parole violations that occur prior to the parole revocation hearing and impose consecutive twenty-four week periods of confinement for each parole violation. The department is authorized to engage in rule making pursuant to chapter 34.05 RCW, to implement this subsection, including narrowly defining the behaviors that could lead to this higher level intervention.

(c) If the department finds that any juvenile in a program of parole has possessed a firearm or used a deadly weapon during the program of parole, the department shall modify the parole under (a) of this subsection and confine the juvenile for at least thirty days. Confinement shall be in a facility operated by or pursuant to a contract with the state or any county.

(5) A parole officer of the department of children, youth, and families shall have the power to arrest a juvenile under his or her supervision on the same grounds as a law enforcement officer would be authorized to arrest the person.

(6) If so requested and approved under chapter 13.06 RCW, the secretary shall permit a county or group of counties to perform functions under subsections (3) through (5) of this section.

NEW SECTION. **Sec. 10.** A new section is added to chapter 9A.44 RCW to read as follows:

(1) For a person who is not an adult, any existing legal obligation to register as a sex offender is extinguished on the effective date of this section if the person no longer has a duty to register under RCW 9A.44.130(1)(b).

(2) For a person who has an existing legal obligation to register under RCW 9A.44.130(1)(b), the obligation shall extinguish two or three years after the last date of release from confinement, including full-time residential treatment, if any, or entry of disposition according to the applicable registration period required under RCW 9A.44.140(4).

(3) By December 1, 2023, each registering agency shall conduct an individual review and remove all persons from the sex offender registry whose obligation to register is based on an offense committed while the person was under 18 years of age, unless the individual has a legal obligation to register under subsection (2) of this section.

Sec. 11. RCW 9A.44.145 and 2010 c 267 s 8 are each amended to read as follows:

(1) The state patrol shall notify:

(a) Registered sex and kidnapping offenders of any change to the registration requirements, including the extinguishment of a legal obligation to register under section 10 of this act; ((~~and~~))

(b) No less than annually, an offender having a duty to register under RCW 9A.44.143 for a sex offense or kidnapping offense committed when the offender was a juvenile of their ability to petition for relief from registration as provided in RCW 9A.44.140; and

(c) A school's or institution's designated recipient of records under RCW 9A.44.138 regarding the extinguishment of a student's legal obligation to register under section 10 of this act.

(2) For economic efficiency, the state patrol may combine the notices in this section into one notice.

NEW SECTION. **Sec. 12.** Section 10 of this act takes effect November 1, 2023.

Passed by the House March 3, 2023.
Passed by the Senate April 10, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 151

[Substitute House Bill 1406]

HOMELESS OR RUNAWAY YOUTH—VARIOUS PROVISIONS

AN ACT Relating to youth seeking housing assistance and other related services; amending RCW 13.32A.040, 13.32A.082, 43.185C.010, and 43.185C.265; and adding a new section to chapter 43.330 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 13.32A.040 and 2020 c 51 s 2 are each amended to read as follows:

(1) The department, or a designated contractor of the department, shall ((~~offer~~)):

(a) Offer family reconciliation services to families or youth who are experiencing conflict and who may be in need of services upon request from the family or youth and subject to the availability of funding appropriated for this specific purpose; and

(b) Offer family reconciliation services to families or youth after receiving a report that a youth is away from a lawfully prescribed residence or home without parental permission under RCW 13.32A.082(1). If the family or youth is being served by the community support team created under section 5 of this act, the department or designated contractor of the department must:

(i) Still offer family reconciliation services; and

(ii) Coordinate with the community support team created in section 5 of this act.

(2) The department may involve a local multidisciplinary team in its response in determining the services to be provided and in providing those services. Such services shall be provided to alleviate personal or family situations which present a serious and imminent threat to the health or stability of the child or family and to maintain families intact wherever possible.

Sec. 2. RCW 13.32A.082 and 2013 c 4 s 2 are each amended to read as follows:

(1)(a) Except as provided in (b) of this subsection, any person, unlicensed youth shelter, or runaway and homeless youth program that, without legal authorization, provides shelter to a minor and that knows at the time of providing the shelter that the minor is away from a lawfully prescribed residence or home without parental permission, shall promptly report the location of the child to the parent, the law enforcement agency of the jurisdiction in which the person lives, or the department.

(b)(i) If a licensed overnight youth shelter, or another licensed organization with a stated mission to provide services to homeless or runaway youth and their families, shelters a child and knows at the time of providing the shelter that the

child is away from a lawfully prescribed residence or home without parental permission, it must contact the youth's parent within ((~~seventy-two~~)) 72 hours, but preferably within ((~~twenty-four~~)) 24 hours, following the time that the youth is admitted to the shelter or other licensed organization's program. The notification must include the whereabouts of the youth, a description of the youth's physical and emotional condition, and the circumstances surrounding the youth's contact with the shelter or organization. If there are compelling reasons not to notify the parent, the shelter or organization must instead notify the department. When a minor remains in a licensed overnight youth shelter or with another licensed organization with a stated mission to provide services to homeless or runaway youth and their families under subsection (1)(b)(i)(A) and (B) of this section, the shelter or organization must also notify the department. A minor may provide authorization to remain in a licensed overnight youth shelter or with another licensed organization with a stated mission to provide services to homeless or runaway youth and their families, subject to any limits established by those licensed shelters or organizations, for up to 90 days if:

(A) The licensed overnight youth shelter or other licensed organization with a stated mission to provide services to homeless or runaway youth and their families is unable to make contact with a parent despite their notification efforts required under this section; or

(B) The licensed overnight youth shelter or other licensed organization with a stated mission to provide services to homeless or runaway youth and their families makes contact with a parent, but the parent does not request that the child return home even if the parent does not provide consent for the minor remaining in the licensed overnight youth shelter or other licensed organization with a stated mission to provide services to homeless or runaway youth.

(ii) At least once every eight hours after learning that a youth receiving services or shelter under this section is away from home without permission, the shelter or organization staff must consult the information that the Washington state patrol makes publicly available under RCW 43.43.510(2). If the youth is publicly listed as missing, the shelter or organization must immediately notify the department of its contact with the youth listed as missing. The notification must include a description of the minor's physical and emotional condition and the circumstances surrounding the youth's contact with the shelter or organization.

(c) Reports required under this section may be made by telephone or any other reasonable means.

(2) Unless the context clearly requires otherwise, the definitions in this subsection apply throughout this section.

(a) "Shelter" means the person's home or any structure over which the person has any control.

(b) "Promptly report" means to report within eight hours after the person has knowledge that the minor is away from a lawfully prescribed residence or home without parental permission.

(c) "Compelling reasons" include, but are not limited to, circumstances that indicate that notifying the parent or legal guardian will subject the minor to abuse or neglect as defined in RCW 26.44.020.

(3) When the department receives a report under subsection (1) of this section, it shall make a good faith attempt to notify the parent that a report has

been received and offer services to the youth and the family designed to resolve the conflict, including offering family reconciliation services, and accomplish a reunification of the family. The department shall offer services under this subsection as soon as possible, but no later than three days, excluding weekends and holidays, following the receipt of a report under subsection (1) of this section.

(4) Nothing in this section prohibits any person, unlicensed youth shelter, or runaway and homeless youth program from immediately reporting the identity and location of any minor who is away from a lawfully prescribed residence or home without parental permission more promptly than required under this section.

Sec. 3. RCW 43.185C.010 and 2019 c 124 s 2 are each amended to read as follows:

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

(1) "Administrator" means the individual who has the daily administrative responsibility of a crisis residential center.

(2) "Child in need of services petition" means a petition filed in juvenile court by a parent, child, or the department of children, youth, and families seeking adjudication of placement of the child.

(3) "Community action agency" means a nonprofit private or public organization established under the economic opportunity act of 1964.

(4) "Crisis residential center" means a secure or semi-secure facility established pursuant to chapter 74.13 RCW.

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

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

(7) "Home security fund account" means the state treasury account receiving the state's portion of income from revenue from the sources established by RCW 36.22.179 and 36.22.1791, and all other sources directed to the homeless housing and assistance program.

(8) "Homeless housing grant program" means the vehicle by which competitive grants are awarded by the department, utilizing moneys from the home security fund account, to local governments for programs directly related to housing homeless individuals and families, addressing the root causes of homelessness, preventing homelessness, collecting data on homeless individuals, and other efforts directly related to housing homeless persons.

(9) "Homeless housing plan" means the five-year plan developed by the county or other local government to address housing for homeless persons.

(10) "Homeless housing program" means the program authorized under this chapter as administered by the department at the state level and by the local government or its designated subcontractor at the local level.

(11) "Homeless housing strategic plan" means the five-year plan developed by the department, in consultation with the interagency council on homelessness, the affordable housing advisory board, and the state advisory council on homelessness.

(12) "Homeless person" means an individual living outside or in a building not meant for human habitation or which they have no legal right to occupy, in an emergency shelter, or in a temporary housing program which may include a transitional and supportive housing program if habitation time limits exist. This

definition includes substance abusers, people with mental illness, and sex offenders who are homeless.

(13) "HOPE center" means an agency licensed by the secretary of the department of children, youth, and families to provide temporary residential placement and other services to street youth. A street youth may remain in a HOPE center for ((~~thirty~~)) 90 days while services are arranged and permanent placement is coordinated. No street youth may stay longer than ((~~thirty~~)) 90 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~~)) 90 days.

(14) "Housing authority" means any of the public corporations created by chapter 35.82 RCW.

(15) "Housing continuum" means the progression of individuals along a housing-focused continuum with homelessness at one end and homeownership at the other.

(16) "Interagency council on homelessness" means a committee appointed by the governor and consisting of, at least, policy level representatives of the following entities: (a) The department of commerce; (b) the department of corrections; (c) the department of children, youth, and families; (d) the department of veterans affairs; and (e) the department of health.

(17) "Local government" means a county government in the state of Washington or a city government, if the legislative authority of the city affirmatively elects to accept the responsibility for housing homeless persons within its borders.

(18) "Local homeless housing task force" means a voluntary local committee created to advise a local government on the creation of a local homeless housing plan and participate in a local homeless housing program. It must include a representative of the county, a representative of the largest city located within the county, at least one homeless or formerly homeless person, such other members as may be required to maintain eligibility for federal funding related to housing programs and services and if feasible, a representative of a private nonprofit organization with experience in low-income housing.

(19) "Long-term private or public housing" means subsidized and unsubsidized rental or owner-occupied housing in which there is no established time limit for habitation of less than two years.

(20) "Performance measurement" means the process of comparing specific measures of success against ultimate and interim goals.

(21) "Secure facility" means a crisis residential center, or portion thereof, that has locking doors, locking windows, or a secured perimeter, designed and operated to prevent a child from leaving without permission of the facility staff.

(22) "Semi-secure facility" means any facility including, but not limited to, crisis residential centers or specialized foster family homes, operated in a manner to reasonably assure that youth placed there will not run away. Pursuant to rules established by the facility administrator, the facility administrator shall establish reasonable hours for residents to come and go from the facility such that no residents are free to come and go at all hours of the day and night. To

prevent residents from taking unreasonable actions, the facility administrator, where appropriate, may condition a resident's leaving the facility upon the resident being accompanied by the administrator or the administrator's designee and the resident may be required to notify the administrator or the administrator's designee of any intent to leave, his or her intended destination, and the probable time of his or her return to the center.

(23) "Staff secure facility" means a structured group care facility licensed under rules adopted by the department of children, youth, and families with a ratio of at least one adult staff member to every two children.

(24) "Street outreach services" means a program that provides services and resources either directly or through referral to street youth and unaccompanied young adults as defined in RCW 43.330.702. Services including crisis intervention, emergency supplies, case management, and referrals may be provided through community-based outreach or drop-in centers.

(25) "Washington homeless census" means an annual statewide census conducted as a collaborative effort by towns, cities, counties, community-based organizations, and state agencies, with the technical support and coordination of the department, to count and collect data on all homeless individuals in Washington.

(26) "Washington homeless client management information system" means a database of information about homeless individuals in the state used to coordinate resources to assist homeless clients to obtain and retain housing and reach greater levels of self-sufficiency or economic independence when appropriate, depending upon their individual situations.

Sec. 4. RCW 43.185C.265 and 2019 c 312 s 16 are each amended to read as follows:

(1) An officer taking a child into custody under RCW 43.185C.260(1) (a) or (b) shall inform the child of the reason for such custody and shall:

(a) Transport the child to his or her home or to a parent at his or her place of employment, if no parent is at home. The parent may request that the officer take the child to the home of an adult extended family member, responsible adult, crisis residential center, the department of children, youth, and families, or a licensed youth shelter. In responding to the request of the parent, the officer shall take the child to a requested place which, in the officer's belief, is within a reasonable distance of the parent's home. The officer releasing a child into the custody of a parent, an adult extended family member, responsible adult, or a licensed youth shelter shall inform the person receiving the child of the reason for taking the child into custody and inform all parties of the nature and location of appropriate services available in the community; or

(b) After attempting to notify the parent, take the child to a designated crisis residential center's secure facility or a center's semi-secure facility if a secure facility is full, not available, or not located within a reasonable distance if:

(i) The child expresses fear or distress at the prospect of being returned to his or her home which leads the officer to believe there is a possibility that the child is experiencing some type of abuse or neglect;

(ii) It is not practical to transport the child to his or her home or place of the parent's employment; or

(iii) There is no parent available to accept custody of the child; or

(c) After attempting to notify the parent, if a crisis residential center is full, not available, or not located within a reasonable distance, request the department of children, youth, and families to accept custody of the child. If the department of children, youth, and families determines that an appropriate placement is currently available, the department of children, youth, and families shall accept custody and place the child in an out-of-home placement. Upon accepting custody of a child from the officer, the department of children, youth, and families may place the child in an out-of-home placement for up to seventy-two hours, excluding Saturdays, Sundays, and holidays, without filing a child in need of services petition, obtaining parental consent, or obtaining an order for placement under chapter 13.34 RCW. Upon transferring a child to the department of children, youth, and families' custody, the officer shall provide written documentation of the reasons and the statutory basis for taking the child into custody. If the department of children, youth, and families declines to accept custody of the child, the officer may release the child after attempting to take the child to the following, in the order listed: The home of an adult extended family member; a responsible adult; or a licensed youth shelter. The officer shall immediately notify the department of children, youth, and families if no placement option is available and the child is released.

(2) An officer taking a child into custody under RCW 43.185C.260(1)(c) shall inform the child of the reason for custody. An officer taking a child into custody under RCW 43.185C.260(1)(c) may release the child to the supervising agency, may return the child to the placement authorized by the supervising agency, or shall take the child to a designated crisis residential center.

(3) Every officer taking a child into custody shall provide the child and his or her parent or parents or responsible adult with a copy of the statement specified in RCW 43.185C.290(6).

(4) Whenever an officer transfers custody of a child to a crisis residential center or the department of children, youth, and families, the child may reside in the crisis residential center or may be placed by the department of children, youth, and families in an out-of-home placement for an aggregate total period of time not to exceed seventy-two hours excluding Saturdays, Sundays, and holidays. Thereafter, the child may continue in out-of-home placement only if the ((~~parents have consented~~)) parent has not requested that the child return home, a child in need of services petition has been filed, or an order for placement has been entered under chapter 13.34 RCW.

(5) The department of children, youth, and families shall ensure that all law enforcement authorities are informed on a regular basis as to the location of all designated secure and semi-secure facilities within centers in their jurisdiction, where children taken into custody under RCW 43.185C.260 may be taken.

NEW SECTION. **Sec. 5.** A new section is added to chapter 43.330 RCW to read as follows:

(1) Subject to the amounts appropriated for this specific purpose, the office of homeless youth prevention and protection programs shall provide additional funding and assistance to contracted youth service providers or other entities who convene a community support team as described in this section. The purpose of the community support team is to help identify supports for a youth focused on resolving family conflict and obtaining or maintaining long-term and stable housing.

(a) The community support team is required to prioritize reunification between the youth and the youth's family to the extent possible without endangering the health, safety, or welfare of the child.

(b) The community support team may not engage with a family member other than the youth if the parent, guardian, or legal custodian objects to the support or assistance that is offered or provided.

(2) A community support team under this section must include:

(a) The youth; and

(b) Supportive adults identified by the youth, which may include:

(i) Licensed shelter staff;

(ii) A case manager;

(iii) Individuals from the youth's school;

(iv) Juvenile court staff;

(v) The youth's attorney;

(vi) Behavioral health providers;

(vii) Community support providers;

(viii) Family members;

(ix) Mentors;

(x) Peer support;

(xi) Housing navigation;

(xii) Legal assistance; or

(xiii) Other community members.

(3) The community support team described in this section shall develop a process that allows youth who enter a licensed overnight youth shelter, or another licensed organization with a stated mission to provide services to homeless or runaway youth and their families to request assistance from the community support team.

(4) Any youth who enters a licensed overnight youth shelter, or another licensed organization with a stated mission to provide services to homeless or runaway youth and their families in an area served by the community support team is eligible for the community support team.

(5) The community support team described in this section shall coordinate efforts, if appropriate, with:

(a) The department or the designated contractor of the department providing family reconciliation services to a youth or family;

(b) Multidisciplinary teams established under RCW 43.185C.250 and 43.185C.255; and

(c) Other nearby youth homelessness assistance programs that may provide assistance to the youth.

Passed by the House March 2, 2023.

Passed by the Senate April 8, 2023.

Approved by the Governor April 20, 2023.

Filed in Office of Secretary of State April 21, 2023.

CHAPTER 152

[Substitute House Bill 1501]

FAMILY MEMBERS OF HOMICIDE VICTIMS—COUNSELING SERVICES

AN ACT Relating to authorizing additional counseling services for immediate family members of homicide victims; and amending RCW 7.68.080.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 7.68.080 and 2017 c 235 s 6 are each amended to read as follows:

(1) When the injury to any victim is so serious as to require the victim's being taken from the place of injury to a place of treatment, reasonable transportation costs to the nearest place of proper treatment shall be reimbursed by the department as part of the victim's total claim under RCW 7.68.070(1).

(2) In the case of alleged rape or molestation of a child, the reasonable costs of a colposcopy examination shall be reimbursed by the department. Costs for a colposcopy examination given under this subsection shall not be included as part of the victim's total claim under RCW 7.68.070(1).

(3) The director shall adopt rules for fees and charges for hospital, clinic, medical, and other health care services, including fees and costs for durable medical equipment, eyeglasses, hearing aids, and other medically necessary devices for crime victims under this chapter. The director shall set these service levels and fees at a level no lower than those established for comparable services under the workers' compensation program under Title 51 RCW, except the director shall comply with the requirements of RCW 7.68.030(2)(g) (i) through (iii) when setting service levels and fees, including reducing levels and fees when required. In establishing fees for medical and other health care services, the director shall consider the director's duty to purchase health care in a prudent, cost-effective manner. The director shall establish rules adopted in accordance with chapter 34.05 RCW. Nothing in this chapter may be construed to require the payment of interest on any billing, fee, or charge.

(4) Whenever the director deems it necessary in order to resolve any medical issue, a victim shall submit to examination by a physician or physicians selected by the director, with the rendition of a report to the person ordering the examination. The department shall provide the physician performing an examination with all relevant medical records from the victim's claim file. The director, in his or her discretion, may charge the cost of such examination or examinations to the crime victims' compensation fund. If the examination is paid for by the victim, then the cost of said examination shall be reimbursed to the victim for reasonable costs connected with the examination as part of the victim's total claim under RCW 7.68.070(1).

(5) Victims of sexual assault are eligible to receive appropriate counseling. Fees for such counseling shall be determined by the department. Counseling services may include, if determined appropriate by the department, counseling of members of the victim's immediate family, other than the perpetrator of the assault.

(6)(a) Immediate family members of a homicide victim may receive appropriate counseling to assist in dealing with the immediate, near-term consequences of the related effects of the homicide. ((~~Up~~)) Except as provided in (b) of this subsection, up to ((~~twelve~~)) 12 counseling sessions may be received

after the crime victim's claim has been allowed. Fees for counseling shall be determined by the department in accordance with and subject to this section. Payment of counseling benefits under this section may not be provided to the perpetrator of the homicide. The benefits under this subsection may be provided only with respect to homicides committed on or after July 1, 1992.

(b) The immediate family members of a homicide victim may receive more than 12 counseling sessions under this subsection (6) if a licensed mental health provider determines that:

(i) Additional sessions are needed as a direct result of the near-term consequences of the related effects of the homicide; and

(ii) The recipient of the counseling would benefit from additional sessions.

(7) Pursuant to RCW 7.68.070((~~(12)~~)) (13), a victim of a sex offense that occurred outside of Washington may be eligible to receive mental health counseling related to participation in proceedings to civilly commit a perpetrator.

(8) The crime victims' compensation program shall consider payment of benefits solely for the effects of the criminal act.

(9) The legislature finds and declares it to be in the public interest of the state of Washington that a proper regulatory and inspection program be instituted in connection with the provision of any services provided to crime victims pursuant to this chapter. In order to effectively accomplish such purpose and to assure that the victim receives such services as are paid for by the state of Washington, the acceptance by the victim of such services, and the request by a provider of services for reimbursement for providing such services, shall authorize the director of the department or the director's authorized representative to inspect and audit all records in connection with the provision of such services. In the conduct of such audits or investigations, the director or the director's authorized representatives may:

(a) Examine all records, or portions thereof, including patient records, for which services were rendered by a health care provider and reimbursed by the department, notwithstanding the provisions of any other statute which may make or purport to make such records privileged or confidential, except that no original patient records shall be removed from the premises of the health care provider, and that the disclosure of any records or information obtained under authority of this section by the department is prohibited and constitutes a violation of RCW 42.52.050, unless such disclosure is directly connected to the official duties of the department. The disclosure of patient information as required under this section shall not subject any physician, licensed advanced registered nurse practitioner, or other health care provider to any liability for breach of any confidential relationships between the provider and the patient. The director or the director's authorized representative shall destroy all copies of patient medical records in their possession upon completion of the audit, investigation, or proceedings;

(b) Approve or deny applications to participate as a provider of services furnished to crime victims pursuant to this title;

(c) Terminate or suspend eligibility to participate as a provider of services furnished to victims pursuant to this title; and

(d) Pursue collection of unpaid overpayments and/or penalties plus interest accrued from health care providers pursuant to RCW 51.32.240(6).

(10) When contracting for health care services and equipment, the department, upon request of a contractor, shall keep confidential financial and valuable trade information, which shall be exempt from public inspection and copying under chapter 42.56 RCW.

Passed by the House February 28, 2023.
Passed by the Senate April 10, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 153

[Substitute House Bill 1577]

MUNICIPAL OFFICERS—BENEFICIAL INTEREST IN CONTRACTS

AN ACT Relating to municipal officers' beneficial interest in contracts; and amending RCW 42.23.030.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 42.23.030 and 2020 c 69 s 1 are each amended to read as follows:

No municipal officer shall be beneficially interested, directly or indirectly, in any contract which may be made by, through or under the supervision of such officer, in whole or in part, or which may be made for the benefit of his or her office, or accept, directly or indirectly, any compensation, gratuity or reward in connection with such contract from any other person beneficially interested therein. This section shall not apply in the following cases:

(1) The furnishing of electrical, water or other utility services by a municipality engaged in the business of furnishing such services, at the same rates and on the same terms as are available to the public generally;

(2) The designation of public depositaries for municipal funds;

(3) The publication of legal notices required by law to be published by any municipality, upon competitive bidding or at rates not higher than prescribed by law for members of the general public;

(4) The designation of a school director as clerk or as both clerk and purchasing agent of a school district;

(5) The employment of any person by a municipality for unskilled day labor at wages not exceeding ((~~one thousand dollars~~)) $1,000 in any calendar month. The exception provided in this subsection does not apply to a county with a population of ((~~one hundred twenty-five thousand~~)) 125,000 or more, a city with a population of more than ((~~one thousand five hundred~~)) 1,500, an irrigation district encompassing more than ((~~fifty thousand~~)) 50,000 acres, or a first-class school district;

(6)(a) The letting of any other contract in which the total amount received under the contract or contracts by the municipal officer or the municipal officer's business does not exceed ((~~one thousand five hundred dollars~~)) $3,000 in any calendar month.

(b) However, in the case of a particular officer of a second-class city or town, or a noncharter optional code city, or a member of any county fair board in a county which has not established a county purchasing department pursuant to RCW 36.32.240, the total amount of such contract or contracts authorized in this

subsection (6) may exceed ((~~one thousand five hundred dollars~~)) $3,000 in any calendar month but shall not exceed ((~~eighteen thousand dollars~~)) $36,000 in any calendar year.

(c)(i) In the case of a particular officer of a rural public hospital district, as defined in RCW 70.44.460, the total amount of such contract or contracts authorized in this subsection (6) may exceed ((~~one thousand five hundred dollars~~)) $1,500 in any calendar month, but shall not exceed ((~~twenty-four thousand dollars~~)) $24,000 in any calendar year.

(ii) At the beginning of each calendar year, beginning with the 2006 calendar year, the legislative authority of the rural public hospital district shall increase the calendar year limitation described in this subsection (6)(c) by an amount equal to the dollar amount for the previous calendar year multiplied by the change in the consumer price index as of the close of the ((~~twelve~~)) 12-month period ending December 31st of that previous calendar year. If the new dollar amount established under this subsection is not a multiple of ((~~ten dollars~~)) $10, the increase shall be rounded to the next lowest multiple of ((~~ten dollars~~)) $10. As used in this subsection, "consumer price index" means the consumer price index compiled by the bureau of labor statistics, United States department of labor for the state of Washington. If the bureau of labor statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people, covering areas exclusively within the boundaries of the state, and including all items shall be used.

(d) The exceptions provided in this subsection (6) do not apply to:

(i) A sale or lease by the municipality as the seller or lessor;

(ii) The letting of any contract by a county with a population of ((~~one hundred twenty-five thousand~~)) 125,000 or more, a city with a population of ((~~ten thousand~~)) 5,000 or more, or an irrigation district encompassing more than ((~~fifty thousand~~)) 50,000 acres; or

(iii) Contracts for legal services, except for reimbursement of expenditures.

(e) The municipality shall maintain a list of all contracts that are awarded under this subsection (6). The list must be made available for public inspection and copying;

(7) The leasing by a port district as lessor of port district property to a municipal officer or to a contracting party in which a municipal officer may be beneficially interested, if in addition to all other legal requirements, a board of three disinterested appraisers and the superior court in the county where the property is situated finds that all terms and conditions of such lease are fair to the port district and are in the public interest. The appraisers must be appointed from members of the American Institute of Real Estate Appraisers by the presiding judge of the superior court;

(8) The letting of any employment contract for the driving of a school bus in a second-class school district if the terms of such contract are commensurate with the pay plan or collective bargaining agreement operating in the district;

(9) The letting of an employment contract as a substitute teacher or substitute educational aide to an officer of a second-class school district that has ((~~three hundred~~)) 300 or fewer full-time equivalent students, if the terms of the contract are commensurate with the pay plan or collective bargaining agreement operating in the district and the board of directors has found, consistent with the

written policy under RCW 28A.330.240, that there is a shortage of substitute teachers in the school district;

(10) The letting of any employment contract to the spouse of an officer of a school district, when such contract is solely for employment as a substitute teacher for the school district. This exception applies only if the terms of the contract are commensurate with the pay plan or collective bargaining agreement applicable to all district employees and the board of directors has found, consistent with the written policy under RCW 28A.330.240, that there is a shortage of substitute teachers in the school district;

(11) The letting of any employment contract to the spouse of an officer of a school district if the spouse was under contract as a certificated or classified employee with the school district before the date in which the officer assumes office and the terms of the contract are commensurate with the pay plan or collective bargaining agreement operating in the district. However, in a second-class school district that has less than ((~~two hundred~~)) 200 full-time equivalent students enrolled at the start of the school year as defined in RCW 28A.150.203, the spouse is not required to be under contract as a certificated or classified employee before the date on which the officer assumes office;

(12) The authorization, approval, or ratification of any employment contract with the spouse of a public hospital district commissioner if: (a) The spouse was employed by the public hospital district before the date the commissioner was initially elected; (b) the terms of the contract are commensurate with the pay plan or collective bargaining agreement operating in the district for similar employees; (c) the interest of the commissioner is disclosed to the board of commissioners and noted in the official minutes or similar records of the public hospital district prior to the letting or continuation of the contract; and (d) and the commissioner does not vote on the authorization, approval, or ratification of the contract or any conditions in the contract.

A municipal officer may not vote in the authorization, approval, or ratification of a contract in which he or she is beneficially interested even though one of the exemptions allowing the awarding of such a contract applies. The interest of the municipal officer must be disclosed to the governing body of the municipality and noted in the official minutes or similar records of the municipality before the formation of the contract.

Passed by the House March 2, 2023.
Passed by the Senate April 7, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 154

[Substitute House Bill 1658]

HIGH SCHOOL CREDIT FOR PAID WORK EXPERIENCE

AN ACT Relating to authorizing public high school students to earn elective credit for paid work experience; adding a new section to chapter 28A.600 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The purpose of a high school diploma as established in RCW 28A.230.090 is to declare that a student is ready for success

in postsecondary education, gainful employment, and citizenship, and is equipped with the skills to be a lifelong learner.

As directed by the legislature, the mastery-based learning work group developed a profile of a graduate, which was accepted without modification by the state board of education and subsequently submitted to the legislature. The profile is designed to clarify the skills, knowledge, attributes, and competencies indicating that a student is ready to transition successfully to life after high school. These indicators include: Effective communication in multiple modes and to multiple audiences; interdisciplinary application of core academic concepts and principles; critical and creative reasoning and problem solving; and navigation and exercise of life and civic responsibilities.

The legislature finds that paid work experiences can provide students with an opportunity to demonstrate the ability to cultivate personal growth and knowledge by setting personally meaningful goals and applying learning in new contexts as well as to master essential life skills and exercise self-agency by developing competence in personal finance and in taking initiative. The legislature recognizes that worksite learning and mastery-based learning options provide opportunities for students to earn academic credit through work, and intends to authorize the elective high school credit through paid work experience provided in section 2 of this act as a third option for earning academic credit through work.

NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.600 RCW to read as follows:

(1) Beginning in the 2023-24 school year and in accordance with the requirements of this section, public high school students age 16 years and older may earn elective high school credit through paid work experience.

(2) Proposals for earning elective high school credit through paid work experience must:

(a) Be approved in advance and in writing by: The applicable school counselor, principal, or designee of the principal; and a work-based sponsor who will serve as the point of contact for the employer and participate in supervising the student during the student's employment;

(b) Be reflected in the student's high school and beyond plan required by RCW 28A.230.090;

(c) Include a student narrative describing how the paid work experience will enable the student to develop the knowledge and skills necessary to meet the goals of basic education, including and in particular those essential to understanding the importance of work and finance and how performance, effort, and decisions directly affect future career and educational opportunities as provided in RCW 28A.150.210(4); and

(d) Include provisions for demonstrating or otherwise assessing the student's:

(i) Grade-level proficiencies on the state financial education learning standards for employment and income or financial decisions as provided in the state financial education learning standards adopted in RCW 28A.300.469; and

(ii) Growth in proficiency in meeting the state financial education learning standards that occurred between prework and postwork experiences.

(3) One-half elective high school credit will be awarded for each 180 hours of paid and verified work experience to students who, as determined by the

appropriate school official, meet the requirements of this section. High school credit may not be awarded for paid work experiences occurring before the approval required by subsection (2) of this section. No student may earn more than two elective high school credits under this section.

(4) Proposals for earning elective high school credit through paid work experience may only be approved at high schools that provide students with the opportunity to learn and master the state financial education learning standards adopted in RCW 28A.300.469.

(5) The office of the superintendent of public instruction shall adopt and may periodically revise rules to implement this section. The rules must permit school districts to award credit to students in accordance with the requirements of this section for work occurring outside of the regular school calendar. No school may approve a student's proposal for earning elective high school credit through paid work experience under this section before rules required by this subsection have been adopted.

Passed by the House March 2, 2023.
Passed by the Senate April 7, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 155

[House Bill 1707]

BINGO—CHARITABLE AND NONPROFIT ORGANIZATIONS

AN ACT Relating to bingo conducted by bona fide charitable or nonprofit organizations; and amending RCW 9.46.0205.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 9.46.0205 and 2002 c 369 s 1 are each amended to read as follows:

"Bingo," as used in this chapter, means a game ((~~conducted only in the county within which the organization is principally located~~)) in which prizes are awarded on the basis of designated numbers or symbols on a card conforming to numbers or symbols selected at random and in which no cards are sold except at the time and place of ((~~said~~)) the game, when ((~~said~~)) the game is conducted by a bona fide charitable or nonprofit organization, or if an agricultural fair authorized under chapters 15.76 and 36.37 RCW, which does not conduct bingo on more than twelve consecutive days in any calendar year, and except in the case of any agricultural fair as authorized under chapters 15.76 and 36.37 RCW, no person other than a bona fide member or an employee of said organization takes any part in the management or operation of said game, and no person who takes any part in the management or operation of said game takes any part in the management or operation of any game conducted by any other organization or any other branch of the same organization, unless approved by the commission, and no part of the proceeds thereof inure to the benefit of any person other than the organization conducting said game. ((~~For the purposes of this section, the organization shall be deemed to be principally located in the county within which it has its primary business office. If the organization has no business office, the organization shall be deemed to be located in the county of principal~~

~~residence of its chief executive officer: PROVIDED, That any organization which is conducting any licensed and established bingo game in any locale as of January 1, 1981, shall be exempt from the requirement that such game be conducted in the county in which the organization is principally located~~)) The bona fide charitable or nonprofit organization must be principally located in the state of Washington and may not be approved for more than three licenses to conduct bingo activities.

Passed by the House March 4, 2023.
Passed by the Senate April 6, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 156

[House Bill 1712]

DISLOCATED WORKERS—FINFISH AQUACULTURE FACILITY CLOSURE

AN ACT Relating to protecting workers displaced as a result of finfish aquaculture facility closures; and amending RCW 50.04.075.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 50.04.075 and 2018 c 179 s 11 are each amended to read as follows:

(1) With respect to claims with an effective date prior to July 1, 2012, "dislocated worker" means any individual who:

(a) Has been terminated or received a notice of termination from employment;

(b) Is eligible for or has exhausted entitlement to unemployment compensation benefits; and

(c) Is unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for their skills in that occupation or industry.

(2) With respect to claims with an effective date on or after July 1, 2012, "dislocated worker" means any individual who:

(a) Has been involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations at the individual's place of employment, has separated from a declining occupation, ((~~or~~)) has separated from employment as a result of chapter 179, Laws of 2018, or has separated from employment as a result of the denial of commercial finfish net pen aquaculture lease renewal applications or the issuance of order number 202211 by the commissioner of public lands on November 17, 2022; and

(b) Is eligible for or has exhausted entitlement to unemployment compensation benefits.

Passed by the House March 6, 2023.
Passed by the Senate April 7, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 157

[Second Substitute House Bill 1728]

DISASTER RESILIENCY PROGRAM

AN ACT Relating to creating a statewide resiliency program; adding a new section to chapter 38.52 RCW; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** Washington state residents have been increasingly impacted by disasters such as floods, landslides, wildfires, earthquakes, and the COVID-19 pandemic and they continue to be at risk from emergency threats and other disasters, with communities of color and vulnerable populations disproportionately impacted. Residents are also negatively impacted by certain responses to disasters, including border closures. The legislature finds that it is critical to better prepare Washington for disasters and to mitigate the impacts with coordinated resilience strategies. The legislature further finds a resilient Washington increases quality of life for Washingtonians while every one dollar spent on mitigation saves six dollars spent on recovery. To address this critical need, the legislature intends to implement a disaster resilience program for the benefit of all Washingtonians while conserving expenditures by both public and private sectors.

NEW SECTION. **Sec. 2.** A new section is added to chapter 38.52 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the emergency management division within the department shall develop and administer a disaster resilience program. The program should include:

(a) Methods for ensuring ongoing coordination of state and local disaster resilience and response activities, including:

(i) Coordinating funding to maximize federal, state, local, and private investments;

(ii) Serving as a public and private disaster resilience resource center;

(iii) Enhancing interagency collaboration, education, and outreach programs; and

(iv) Identifying and leveraging respective roles, authorities, and expertise of agencies;

(b) Strategies for addressing the impacts of all hazards, both natural and human-caused, such as border closures, including:

(i) Developing, coordinating, and communicating disaster resilience initiatives and projects across state agencies and local governments on hazards and issues where there is not another lead agency for coordinating resilience activities, including projects that give special consideration to exclave communities;

(ii) Conducting policy research and recommendations related to enhancing disaster resilience;

(iii) Coordinating research, data collection, and analysis;

(iv) Researching economic tools to address disaster resilience; and

(v) Recommending investments to mitigate disaster risks from all threats and hazards; and

(c) Participating and collaborating in interagency efforts to advance statewide climate resilience activities under chapter 70A.05 RCW, including collaborating on the development of a statewide strategy and identifying opportunities to leverage funding to advance solutions that improve the resilience of communities, infrastructure, and ecosystems.

(2) For purposes of this section:

(a) "Resilience" means the ability to prepare, mitigate, plan for, withstand, recover from, and more successfully adapt to adverse events and changing conditions, and reorganize in an equitable manner that results in a new and better condition; and

(b) "Disaster resilience" means resilience within the critical infrastructure sectors of emergency services; communications; critical government facilities; transportation; critical manufacturing; commercial facilities; chemical manufacturing and distribution; water and wastewater treatment; and dams, excluding power generation.

NEW SECTION. **Sec. 3.** Before July 1, 2025, the emergency management division of the state military department shall provide a report to the office of the governor and the appropriate committees of the legislature on the overall progress of disaster resilience efforts for the hazards and issues where there is not another lead agency for coordinating resilience activities. Each agency with responsibility for resilience activities, including but not limited to the department of ecology, department of health, Washington technology solutions, department of agriculture, and department of commerce, is encouraged to include an update on its efforts and any associated policy recommendations as an appendix to the report.

Passed by the House March 4, 2023.

Passed by the Senate April 10, 2023.

Approved by the Governor April 20, 2023.

Filed in Office of Secretary of State April 21, 2023.

CHAPTER 158

[House Bill 1730]

LIQUOR LICENSEES—EMPLOYMENT OF PERSONS AGED 18, 19, AND 20

AN ACT Relating to allowing youth ages 18 and older to work in establishments traditionally classified as off-limits to persons under the age of 21 in certain specific and limited circumstances; amending RCW 66.44.316; creating a new section; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature finds that the COVID-19 pandemic created extreme labor shortages in certain industries, especially in the food service and hospitality industry.

(2) The legislature further finds that establishments traditionally classified as off-limits to persons under the age of 21 have experienced even greater labor challenges in occupations that do not involve the serving of alcohol or interacting with patrons, such as dishwashers, sanitation specialists, line cooks, prep cooks, fry cooks, and chefs.

(3) The legislature further finds that these occupations are critical entry-level jobs that help youth develop strong skills that translate into success in other workplaces and occupations later in life.

(4) Therefore, the legislature intends to allow, under specific and limited circumstances, youth between the ages of 18 to 21 to be employed in establishments traditionally classified as off-limits to persons under the age of 21.

Sec. 2. RCW 66.44.316 and 1985 c 323 s 1 are each amended to read as follows:

(1) It is lawful for:

(((~~(1)~~))) (a) Professional musicians, professional disc jockeys, or professional sound or lighting technicians actively engaged in support of professional musicians or professional disc jockeys, ((~~eighteen~~)) 18 years of age and older, to enter and to remain in any premises licensed under the provisions of ((~~Title 66 RCW~~)) this title, but only during and in the course of their employment as musicians, disc jockeys, or sound or lighting technicians;

(((~~(2)~~))) (b) Persons ((~~eighteen~~)) 18 years of age and older performing janitorial services to enter and remain on premises licensed under the provisions of ((~~Title 66 RCW~~)) this title when the premises are closed but only during and in the course of their performance of janitorial services;

(((~~(3)~~))) (c) Employees of amusement device companies, which employees are ((~~eighteen~~)) 18 years of age or older, to enter and to remain in any premises licensed under the provisions of ((~~Title 66 RCW~~)) this title, but only during and in the course of their employment for the purpose of installing, maintaining, repairing, or removing an amusement device. For the purposes of this section amusement device means coin-operated video games, pinball machines, juke boxes, or other similar devices; ((~~and~~

~~(4)~~))) (d) Security and law enforcement officers, and firefighters ((~~eighteen~~)) 18 years of age or older to enter and to remain in any premises licensed under ((~~Title 66 RCW~~)) this title, but only during and in the course of their official duties and only if they are not the direct employees of the licensee. However, the application of ((~~the [this]~~)) this subsection to security officers is limited to casual, isolated incidents arising in the course of their duties and does not extend to continuous or frequent entering or remaining in any licensed premises; and

(e) Persons 18 years of age and older performing services unrelated to the sale or service of alcohol to enter and remain on premises licensed under this title, but only during and in the course of their employment as a dishwasher, cook, chef, sanitation specialist, or other kitchen staff and only under the following conditions:

(i) The individual may not perform any services or work in the bar, lounge, or dining area of the licensed premises;

(ii) The individual may not serve food, drinks, or otherwise interact with the patrons of the licensee;

(iii) The individual may never be in possession of or consume alcohol at any time; and

(iv) The licensee must ensure that a supervisor, who is at least 21 years of age, is present at all times that an individual employed under this section is working.

(2) This section shall not be construed as permitting the sale or distribution of any alcoholic beverages to any person under the age of ((~~twenty-one~~)) 21 years.

***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.*

**Sec. 3 was vetoed. See message at end of chapter.*

Passed by the House March 8, 2023.

Passed by the Senate April 7, 2023.

Approved by the Governor April 20, 2023, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 21, 2023.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 3, House Bill No. 1730 entitled:

"AN ACT Relating to allowing youth ages 18 and older to work in establishments traditionally classified as off-limits to persons under the age of 21 in certain specific and limited circumstances."

This bill would make permanent certain temporary emergency provisions adopted in response to the COVID pandemic, but those emergency provisions lapsed in September of 2022. Section 3 is an emergency clause, which would make this bill effective immediately. This legislation is not necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions.

For these reasons I have vetoed Section 3 of House Bill No. 1730.

With the exception of Section 3, House Bill No. 1730 is approved."

CHAPTER 159

[House Bill 1763]

CONDITIONAL SCHOLARSHIPS—OBLIGATION COMPLETION

AN ACT Relating to ensuring completion of conditional scholarship obligations and reducing penalties for excusable incomplete obligations; and amending RCW 28B.115.120.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 28B.115.120 and 2019 c 302 s 11 are each amended to read as follows:

(1) Participants in the Washington health corps who are awarded scholarships incur an obligation to repay the scholarship, with penalty and interest, unless they serve the required service obligation in a health professional shortage area in the state of Washington.

(2) The interest rate ((~~shall be~~)), determined by the office and established by rule, may not exceed two percent. Participants who fail to complete the service obligation shall incur an equalization fee based on the remaining unforgiven balance. The equalization fee shall be added to the remaining balance and repaid by the participant.

(3) The period for repayment shall coincide with the required service obligation, with payments of principal and interest commencing no later than six months from the date the participant completes or discontinues the course of

study or completes or discontinues the required postgraduate training. Provisions for deferral of payment shall be determined by the office.

(4) The entire principal and interest of each payment shall be forgiven for each payment period in which the participant serves in a health professional shortage area until the entire repayment obligation is satisfied or the borrower ceases to so serve. Should the participant cease to serve in a health professional shortage area of this state before the participant's repayment obligation is completed, payment of the unsatisfied portion of the principal and interest is due and payable immediately.

(5) Participants who are unable to pay the full amount due shall enter into a payment arrangement with the office for repayment including interest not to exceed two percent. The office shall set the maximum period for repayment by rule.

(6) The office is responsible for collection of repayments made under this section and shall exercise due diligence in such collection, maintaining all necessary records to ensure that maximum repayments are made. Collection and servicing of repayments under this section shall be pursued using the full extent of the law, including wage garnishment if necessary, and shall be performed by entities approved for such servicing by the Washington student loan guaranty association or its successor agency. The office is responsible to forgive all or parts of such repayments under the criteria established in this section and shall maintain all necessary records of forgiven payments.

(7) Receipts from the payment of principal or interest or any other subsidies to which the office as administrator is entitled, which are paid by or on behalf of participants under this section, shall be deposited with the office and shall be used to cover the costs of granting the scholarships, maintaining necessary records, and making collections under subsection (6) of this section. The office shall maintain accurate records of these costs, and all receipts beyond those necessary to pay such costs shall be used to grant scholarships to eligible students.

(8) Sponsoring communities who financially contribute to the eligible financial expenses of eligible medical students may enter into agreements with the student to require repayment should the student not serve the required service obligation in the community as a primary care physician. The office may develop criteria for the content of such agreements with respect to reasonable provisions and obligations between communities and eligible students.

(9) To the extent reasonably practicable, the office shall reduce, or help to reduce, barriers that threaten a participant's ability to complete their service obligations under this chapter by offering wraparound services including, for example, navigation support for public benefits, financial coaching, and access to food, housing, and child care resources and referrals.

(10) The office ((~~may~~)) shall make exceptions to the conditions for participation and repayment obligations should substantial circumstances beyond the control of individual participants warrant such exceptions. The office shall establish an appeal process by rule. Substantial circumstances include, but are not limited to:

(a) The participant is a service member of the armed forces, including the national guard and armed forces reserves, or is a spouse or dependent of a service member, who receives permanent change of station or deployment

orders to move out-of-state or to a location that would create a hardship to complete the participant's service obligations under this chapter. The participant shall provide the office with a copy of the official military orders or a signed letter from the service member's commanding officer confirming change of station orders;

(b) The participant is experiencing unforeseen emergencies or hardships that substantially affect the participant's ability to complete the participant's service obligations under this chapter.

Passed by the House March 6, 2023.
Passed by the Senate April 8, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 160

[House Bill 1792]

WATER RIGHTS ADJUDICATION—TIMELINES

AN ACT Relating to modifying timelines and other initial procedural actions in a water rights adjudication; and amending RCW 90.03.120, 90.03.130, 90.03.140, 90.03.625, 90.03.635, and 90.03.645.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 90.03.120 and 2009 c 332 s 2 are each amended to read as follows:

(1) Upon the filing of the statement and map as provided in RCW 90.03.110 the judge of such superior court shall make an order directing summons to be issued, and fixing the return day thereof, which shall be not less than ((~~one hundred~~)) 100 nor more than ((~~one hundred thirty~~)) 130 days, after the making of such order: PROVIDED, That for good cause, the court, at the request of the department, may modify said time period; PROVIDED FURTHER, That for an adjudication filed in water resource inventory area 1 after June 1, 2023, the return day for the latest time to file claims pursuant to such a summons shall be not less than one year after the making of such an order, unless special rules of procedure established by the court pursuant to RCW 90.03.160(3) provide for a later date.

(2) A summons issued under this section shall be issued out of said superior court, signed and attested by the clerk thereof, in the name of the state of Washington, as plaintiff, against all known persons identified by the department under RCW 90.03.110. The summons shall contain a brief statement of the objects and purpose of the proceedings and shall require the defendants to appear on the return day thereof, and make and file an adjudication claim to, or interest in, the water involved and a statement that unless they appear at the time and place fixed and assert such right, judgment will be entered determining their rights according to the evidence: PROVIDED, HOWEVER, That any persons claiming the right to water by virtue of a contract with a claimant to the right to divert the same, shall not be necessary parties to the proceeding; PROVIDED FURTHER, That for an adjudication filed in water resource inventory area 1 after June 1, 2023, the latest day for a party to appear by filing a claim in response to such a summons shall be set by the court and listed within the

summons as a date not less than one year after the service of said summons, unless special rules of procedure established by the court pursuant to RCW 90.03.160(3) provide for a later date.

(3) To the extent consistent with court rules and subject to the availability of funds provided either by direct appropriation or funded through the administrative office of the courts for this specific adjudicative proceeding, the court is encouraged to conduct the water rights adjudication employing innovative practices and technologies appropriate to large scale and complex cases, such as: (a) Electronic filing of documents, including notice and claims; (b) appearance via teleconferencing; (c) prefiling of testimony; and (d) other practices and technologies consistent with court rules and emerging technologies.

Sec. 2. RCW 90.03.130 and 2009 c 332 s 6 are each amended to read as follows:

(1) Service of said summons shall be made in the same manner and with the same force and effect as service of summons in civil actions commenced in the superior courts of the state: PROVIDED, That as an alternative to personal service, service may be made by certified mail, with return receipt signed and dated by defendant, a spouse of a defendant, or another person authorized to accept service. If the defendants, or either of them, cannot be found within the state of Washington, of which the return of the sheriff of the county in which the proceeding is pending or the failure to sign a receipt for certified mail shall be prima facie evidence, upon the filing of an affidavit by the department, or its attorney, in conformity with the statute relative to the service of summons by publication in civil actions, such service may be made by publication in a newspaper of general circulation in the county in which such proceeding is pending, and also publication of said summons in a newspaper of general circulation in each county in which any portion of the water is situated, once a week for six consecutive weeks (six publications). ((~~The~~)) Except as provided in subsection (3) of this section, the summons by publication shall state that adjudication claims must be filed within sixty days after the last publication or before the return date, whichever is later. In cases where personal service or service by certified mail is had, summons must be served at least ((~~sixty~~)) 60 days before the return day thereof. For summons by certified mail, completion of service occurs upon the date of receipt by the defendant.

(2) Personal service of summons may be made by department of ecology employees for actions pertaining to water rights.

(3) For an adjudication filed in water resource inventory area 1 after June 1, 2023, any summons shall state that adjudication claims must be within the time frame set pursuant to RCW 90.03.120, unless special rules of procedure established by the court pursuant to RCW 90.03.160(3) provide for a later date.

Sec. 3. RCW 90.03.140 and 2009 c 332 s 7 are each amended to read as follows:

(1) On or before the date specified in the summons, each defendant shall file with the clerk of the superior court an adjudication claim on a form and in a manner provided by the department, and mail or electronically mail a copy to the department. The department shall provide information that will assist claimants of small uses of water in completing their adjudication claims. The adjudication

claim must contain substantially the following, except that when the legal basis for the claimed right is a federally reserved right, the information must be filed only as applicable:

(a) The name, mailing address, and telephone contact number of each defendant on the claim, and email address, if available;

(b) The purpose or purposes of use of the water and the annual and instantaneous quantities of water put to beneficial use;

(c) For each use, the date the first steps were taken under the law to put the water to beneficial use;

(d) The date of beginning and completion of the construction of wells, ditches, or other works to put the water to use;

(e) The maximum amount of land ever under irrigation and the maximum annual and instantaneous quantities of water ever used thereon prior to the date of the statement and if for power, or other purposes, the maximum annual and instantaneous quantities of water ever used prior to the date of the adjudication claim;

(f) The dates between which water is used annually;

(g) If located outside the boundaries of a city, town, or special purpose district that provides water to property within its service area, the legal description and county tax parcel number of the land upon which the water as presently claimed has been, or may be, put to beneficial use;

(h) The legal description and county tax parcel number of the subdivision of land on which the point of diversion or withdrawal is located as well as land survey and geographic positioning coordinates of the same if available;

(i) Whether a right to surface or groundwater, or both, is claimed and the source of the surface water and the location and depth of all wells;

(j) The legal basis for the claimed right;

(k) Whether a statement of claim relating to the water right was filed under chapter 90.14 RCW or whether a declaration relating to the water right was filed under chapter 90.44 RCW and, if so, the claim or declaration number, and whether the right is documented by a permit or certificate and, if so, the permit number or certificate number. When the source is a well, the well log number must be provided, when available;

(l) The amount of land and the annual and instantaneous quantities of water used thereon, or used for power or other purposes, that the defendant claims as a present right.

(2) The adjudication claim shall be verified on oath by the defendant. The department shall furnish the form for the adjudication claim. A claimant may file an adjudication claim electronically if authorized under state and local court rules. The department may assist claimants in their effort by making the department's pertinent records and information accessible electronically or by other means and through conferring with claimants.

(3) For an adjudication filed in water resource inventory area 1 after June 1, 2023, the department shall broadly distribute a draft version of the adjudication claim form to enable review and input by prospective claimants. The draft version must, at a minimum, be provided to Indian tribes, local governments, and special purpose districts and allow for at least 60 days of public comment on the draft adjudication claim form prior to the department finalizing the form.

Sec. 4. RCW 90.03.625 and 2009 c 332 s 4 are each amended to read as follows:

Upon expiration of the filing period established under RCW 90.03.120((~~(2)~~)), the department shall file a motion for default against defendants who have been served but who have failed to timely file an adjudication claim under RCW 90.03.140. A party in default may file a late claim under the same circumstances the party could respond or defend under court rules on default judgments.

Sec. 5. RCW 90.03.635 and 2009 c 332 s 8 are each amended to read as follows:

(1) Within the date set by the court for filing evidence, each claimant shall file with the court evidence to support the claimant's adjudication claims. The court is encouraged to set a date for filing evidence that is reasonable and fair for the timely processing of the adjudication. The evidence may include, without limitation, permits or certificates of water right, statements of claim made under chapter 90.14 RCW, deeds, documents related to issuance of a land patent, aerial photographs, decrees of previous water rights adjudications, crop records, records of livestock purchases and sales, records of power use, metering records, declarations containing testimonial evidence, records of diversion, withdrawal or storage and delivery by irrigation districts or ditch companies, and any other evidence to support that a water right was obtained and was not thereafter abandoned or relinquished. The evidence filed may include matters that are outside the original adjudication claim filed, and within the date set by the court for filing evidence, the claimant may amend the adjudication claim to conform to the evidence filed. Thereafter, except for good cause shown, a claimant may not file additional evidence to support the claim.

(2) For an adjudication filed in water resource inventory area 1 after June 1, 2023, the latest date for filing evidence to support the claimant's adjudication claims shall be no less than three years after the date for the filing of adjudication claims by a party set by the court under RCW 90.03.120, unless special rules of procedure established by the court pursuant to RCW 90.03.160(3) provide for a later date. Simplified procedures for claimants of small uses of water under RCW 90.03.160(3) are not subject to this provision.

Sec. 6. RCW 90.03.645 and 2009 c 332 s 11 are each amended to read as follows:

(1) The legislature finds that early settlement of contested claims is needed for a fair and efficient adjudication of water rights. Therefore, the department and other parties should identify opportunities for settlement following the date set by the court for filing ((~~evidence for all parties~~)) of claims. To the extent consistent with court rules, the court as it deems beneficial is encouraged to urge as many parties to the adjudication as possible to reach timely agreement on claimed water rights in a manner that limits costs to the public, claimants, counties, courts, and the department. Further, at appropriate times throughout the process the court as it deems beneficial is encouraged to direct parties to utilize alternative methods of dispute resolution, including informal meetings, negotiation, mediation, or other methods to reach agreement on disputed claims.

(2) Any time after the filing of all claims under RCW 90.03.140, the department or another party may move the superior court to allow parties to

meet for settlement discussions for a set length of time, either before an appointed mediator or without a mediator. For good cause shown, the court may extend the length of time for settlement discussions. The costs of mediation must be equitably borne by the parties to the mediation.

(3) If the department and a claimant reach agreement on settlement, the department shall file a motion to approve the settlement pursuant to RCW 90.03.640(3)(a) and shall disclose the terms of the settlement to other parties to the adjudication. The court shall conduct a hearing prior to approving a settlement and any party to the adjudication may object or offer modifications to the settlement.

Passed by the House February 28, 2023.
Passed by the Senate April 6, 2023.
Approved by the Governor April 20, 2023.
Filed in Office of Secretary of State April 21, 2023.

CHAPTER 161

[Engrossed Second Substitute House Bill 1143]
FIREARMS—PURCHASE AND TRANSFER

AN ACT Relating to enhancing requirements for the purchase or transfer of firearms by requiring a permit to purchase firearms, firearms safety training, and a 10-day waiting period, prohibiting firearms transfers prior to completion of a background check, and updating and creating consistency in firearms transfer and background check procedures; amending RCW 9.41.090, 9.41.047, 9.41.092, 9.41.094, 9.41.097, 9.41.0975, 9.41.110, and 9.41.1135; adding a new section to chapter 9.41 RCW; creating a new section; repealing 2019 c 244 s 1; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 9.41.090 and 2019 c 3 s 3 are each amended to read as follows:

(1) In addition to the other requirements of this chapter, no dealer may deliver a ((~~pistol~~)) firearm to the purchaser thereof until:

(a) The purchaser ((~~produces a valid concealed pistol license and the dealer has recorded the purchaser's name, license number, and issuing agency, such record to be made in triplicate and processed as provided in subsection (6) of this section. For purposes of this subsection (1)(a), a "valid concealed pistol license" does not include a temporary emergency license, and does not include any license issued before July 1, 1996, unless the issuing agency conducted a records search for disqualifying crimes under RCW 9.41.070 at the time of issuance~~)) provides proof of completion of a recognized firearm safety training program within the last five years that complies with the requirements in section 2 of this act, or proof that the purchaser is exempt from the training requirement;

(b) The dealer is notified ((~~in writing by (i) the chief of police or the sheriff of the jurisdiction in which the purchaser resides that the purchaser is eligible to possess a pistol under RCW 9.41.040 and that the application to purchase is approved by the chief of police or sheriff; or (ii) the state~~)) by the Washington state patrol firearms background check program that the purchaser is eligible to possess a firearm under ((~~RCW 9.41.040, as provided in subsection (3)(b) of this section; or~~)) state and federal law; and

(c) The requirements ((~~or~~)) and time periods in RCW 9.41.092 have been satisfied.

(2) ((~~In addition to the other requirements of this chapter, no dealer may deliver a semiautomatic assault rifle to the purchaser thereof until:~~

~~(a) The purchaser provides proof that he or she has completed a recognized firearm safety training program within the last five years that, at a minimum, includes instruction on:~~

~~(i) Basic firearms safety rules;~~

~~(ii) Firearms and children, including secure gun storage and talking to children about gun safety;~~

~~(iii) Firearms and suicide prevention;~~

~~(iv) Secure gun storage to prevent unauthorized access and use;~~

~~(v) Safe handling of firearms; and~~

~~(vi) State and federal firearms laws, including prohibited firearms transfers.~~

~~The training must be sponsored by a federal, state, county, or municipal law enforcement agency, a college or university, a nationally recognized organization that customarily offers firearms training, or a firearms training school with instructors certified by a nationally recognized organization that customarily offers firearms training. The proof of training shall be in the form of a certification that states under the penalty of perjury the training included the minimum requirements; and~~

~~(b) The dealer is notified in writing by (i) the chief of police or the sheriff of the jurisdiction in which the purchaser resides that the purchaser is eligible to possess a firearm under RCW 9.41.040 and that the application to purchase is approved by the chief of police or sheriff; or (ii) the state that the purchaser is eligible to possess a firearm under RCW 9.41.040, as provided in subsection (3)(b) of this section; or~~

~~(c) The requirements or time periods in RCW 9.41.092 have been satisfied.~~

~~(3)(a) Except as provided in (b) of this subsection, in~~)) In determining whether the purchaser ((~~meets the requirements of RCW 9.41.040~~)) is eligible to possess a firearm, the ((~~chief of police or sheriff, or the designee of either,~~)) Washington state patrol firearms background check program shall check with the ((~~national crime information center, including the~~)) national instant criminal background check system, provided for by the Brady handgun violence prevention act (18 U.S.C. Sec. 921 et seq.), the Washington state patrol electronic database, the health care authority electronic database, the administrative office of the courts, LInX-NW, and with other agencies or resources as appropriate, to determine whether the applicant is ineligible under RCW 9.41.040 to possess a firearm.

((~~(b) The state, through the legislature or initiative process, may enact a statewide firearms background check system equivalent to, or more comprehensive than, the check required by (a) of this subsection to determine that a purchaser is eligible to possess a firearm under RCW 9.41.040. Once a state system is established, a dealer shall use the state system and national instant criminal background check system, provided for by the Brady handgun violence prevention act (18 U.S.C. Sec. 921 et seq.), to make criminal background checks of applicants to purchase firearms.~~

~~(4) In any case under this section where the applicant has an outstanding warrant for his or her arrest from any court of competent jurisdiction for a felony or misdemeanor, the dealer shall hold the delivery of the pistol or semiautomatic assault rifle until the warrant for arrest is served and satisfied by appropriate~~

~~court appearance. The local jurisdiction for purposes of the sale, or the state pursuant to subsection (3)(b) of this section, shall confirm the existence of outstanding warrants within seventy-two hours after notification of the application to purchase a pistol or semiautomatic assault rifle is received. The local jurisdiction shall also immediately confirm the satisfaction of the warrant on request of the dealer so that the hold may be released if the warrant was for an offense other than an offense making a person ineligible under RCW 9.41.040 to possess a firearm.~~

~~(5) In any case where the chief or sheriff of the local jurisdiction, or the state pursuant to subsection (3)(b) of this section, has reasonable grounds based on the following circumstances: (a) Open criminal charges, (b) pending criminal proceedings, (c) pending commitment proceedings, (d) an outstanding warrant for an offense making a person ineligible under RCW 9.41.040 to possess a firearm, or (e) an arrest for an offense making a person ineligible under RCW 9.41.040 to possess a firearm, if the records of disposition have not yet been reported or entered sufficiently to determine eligibility to purchase a firearm, the local jurisdiction or the state may hold the sale and delivery of the pistol or semiautomatic assault rifle up to thirty days in order to confirm existing records in this state or elsewhere. After thirty days, the hold will be lifted unless an extension of the thirty days is approved by a local district court, superior court, or municipal court for good cause shown. A dealer shall be notified of each hold placed on the sale by local law enforcement or the state and of any application to the court for additional hold period to confirm records or confirm the identity of the applicant.~~

~~(6)~~)) (3)(a) At the time of applying for the purchase of a ((~~pistol or semiautomatic assault rifle~~)) firearm, the purchaser shall sign ((~~in triplicate~~)) and deliver to the dealer an application containing:

(i) His or her full name, residential address, date and place of birth, race, and gender;

(ii) The date and hour of the application;

(iii) The applicant's driver's license number or state identification card number;

(iv) A description of the ((~~pistol or semiautomatic assault rifle~~)) firearm including the make, model, caliber and manufacturer's number if available at the time of applying for the purchase of ((~~a pistol or semiautomatic assault rifle~~)) the firearm. If the manufacturer's number is not available at the time of applying for the purchase of a ((~~pistol or semiautomatic assault rifle~~)) firearm, the application may be processed, but delivery of the ((~~pistol or semiautomatic assault rifle~~)) firearm to the purchaser may not occur unless the manufacturer's number is recorded on the application by the dealer and transmitted to the ((~~chief of police of the municipality or the sheriff of the county in which the purchaser resides, or the state pursuant to subsection (3)(b) of this section~~)) Washington state patrol firearms background check program; and

(v) A statement that the purchaser is eligible to purchase and possess a firearm under state and federal law((~~; and~~

~~(vi) If purchasing a semiautomatic assault rifle, a statement by the applicant under penalty of perjury that the applicant has completed a recognized firearm safety training program within the last five years, as required by subsection (2) of this section~~)).

(b) The ((~~application~~)) dealer shall ((~~contain~~)) provide the applicant with information that contains two warnings substantially stated as follows:

(i) CAUTION: Although state and local laws do not differ, federal law and state law on the possession of firearms differ. If you are prohibited by federal law from possessing a firearm, you may be prosecuted in federal court. State permission to purchase a firearm is not a defense to a federal prosecution; and

(ii) CAUTION: The presence of a firearm in the home has been associated with an increased risk of death to self and others, including an increased risk of suicide, death during domestic violence incidents, and unintentional deaths to children and others.

The purchaser shall be given a copy of the department of fish and wildlife pamphlet on the legal limits of the use of firearms and firearms safety.

(c) The dealer shall, by the end of the business day, ((~~sign and attach his or her address and deliver a copy of the application and such other documentation as required under subsections (1) and (2) of this section to the chief of police of the municipality or the sheriff of the county of which the purchaser is a resident, or the state pursuant to subsection (3)(b) of this section~~)) transmit the information from the application through secure automated firearms e-check (SAFE) to the Washington state patrol firearms background check program. The ((~~triplicate~~)) original application shall be retained by the dealer for six years.

(d) The dealer shall deliver the ((~~pistol or semiautomatic assault rifle~~)) firearm to the purchaser ((~~following~~)) once the requirements and period of time specified in this chapter ((~~unless the dealer is notified of an investigative hold under subsection (5) of this section in writing by the chief of police of the municipality, the sheriff of the county, or the state, whichever is applicable, or of the denial of the purchaser's application to purchase and the grounds thereof~~)) are satisfied. The application shall not be denied unless the purchaser is not eligible to purchase or possess the firearm under state or federal law or has not complied with the requirements of this section.

(((~~(d)~~))) (e) The ((~~chief of police of the municipality or the sheriff of the county, or the state pursuant to subsection (3)(b) of this section,~~)) Washington state patrol firearms background check program shall retain or destroy applications to purchase a ((~~pistol or semiautomatic assault rifle~~)) firearm in accordance with the requirements of 18 U.S.C. Sec. 922.

(((~~(7)(a) To help offset the administrative costs of implementing this section as it relates to new requirements for semiautomatic assault rifles, the department of licensing may require the dealer to charge each semiautomatic assault rifle purchaser or transferee a fee not to exceed twenty-five dollars, except that the fee may be adjusted at the beginning of each biennium to levels not to exceed the percentage increase in the consumer price index for all urban consumers, CPI-W, or a successor index, for the previous biennium as calculated by the United States department of labor.~~

~~(b) The fee under (a) of this subsection shall be no more than is necessary to fund the following:~~

~~(i) The state for the cost of meeting its obligations under this section;~~

~~(ii) The health care authority, mental health institutions, and other health care facilities for state-mandated costs resulting from the reporting requirements imposed by RCW 9.41.097(1); and~~

~~(iii) Local law enforcement agencies for state-mandated local costs resulting from the requirements set forth under RCW 9.41.090 and this section.~~

~~(8)~~)) (4) A person who knowingly makes a false statement regarding identity or eligibility requirements on the application to purchase a firearm is guilty of false swearing under RCW 9A.72.040.

((~~(9)~~)) (5) This section does not apply to sales to licensed dealers for resale or to the sale of antique firearms.

NEW SECTION. **Sec. 2.** A new section is added to chapter 9.41 RCW to read as follows:

(1) A person applying for the purchase or transfer of a firearm must provide proof of completion of a recognized firearms safety training program within the last five years that, at a minimum, includes instruction on:

(a) Basic firearms safety rules;

(b) Firearms and children, including secure gun storage and talking to children about gun safety;

(c) Firearms and suicide prevention;

(d) Secure gun storage to prevent unauthorized access and use;

(e) Safe handling of firearms;

(f) State and federal firearms laws, including prohibited firearms transfers and locations where firearms are prohibited;

(g) State laws pertaining to the use of deadly force for self-defense; and

(h) Techniques for avoiding a criminal attack and how to manage a violent confrontation, including conflict resolution.

(2) The training must be sponsored by a federal, state, county, or municipal law enforcement agency, a college or university, a nationally recognized organization that customarily offers firearms training, or a firearms training school with instructors certified by a nationally recognized organization that customarily offers firearms training. The proof of training shall be in the form of a certification that states under the penalty of perjury that the training included the minimum requirements.

(3) The training may include stories provided by individuals with lived experience in the topics listed in subsection (1)(a) through (g) of this section or an understanding of the legal and social impacts of discharging a firearm.

(4) The firearms safety training requirement of this section does not apply to:

(a) A person who is a:

(i) General authority Washington peace officer as defined in RCW 10.93.020;

(ii) Limited authority Washington peace officer as defined in RCW 10.93.020 who as a normal part of their duties has arrest powers and carries a firearm;

(iii) Specially commissioned Washington peace officer as defined in RCW 10.93.020 who as a normal part of their duties has arrest powers and carries a firearm; or

(iv) Federal peace officer as defined in RCW 10.93.020 who as a normal part of their duties has arrest powers and carries a firearm; or

(b) A person who is an active duty member of the armed forces of the United States, an active member of the national guard, or an active member of the armed forces reserves who, as part of the applicant's service, has completed, within the last five years, a course of training in firearms proficiency or familiarization that included training on the safe handling and shooting proficiency with firearms.

Sec. 3. RCW 9.41.047 and 2020 c 302 s 60 are each amended to read as follows:

(1)(a) At the time a person is convicted or found not guilty by reason of insanity of an offense making the person ineligible to possess a firearm under state or federal law, including if the person was convicted of possession under RCW 69.50.4011, 69.50.4013, 69.50.4014, or 69.41.030, or at the time a person is committed by court order under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, or chapter 10.77 RCW for mental health treatment, or at the time that charges are dismissed based on incompetency to stand trial under RCW 10.77.088 and the court makes a finding that the person has a history of one or more violent acts, the convicting or committing court, or court that dismisses charges, shall notify the person, orally and in writing, that the person must immediately surrender any concealed pistol license and that the person may not possess a firearm unless his or her right to do so is restored by a court of record. For purposes of this section a convicting court includes a court in which a person has been found not guilty by reason of insanity.

(b) The court shall forward within three judicial days after conviction, entry of the commitment order, or dismissal of charges, a copy of the person's driver's license or identicard, or comparable information such as their name, address, and date of birth, along with the date of conviction or commitment, or date charges are dismissed, to the department of licensing and to the Washington state patrol firearms background check program. When a person is committed by court order under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, or chapter 10.77 RCW, for mental health treatment, or when a person's charges are dismissed based on incompetency to stand trial under RCW 10.77.088 and the court makes a finding that the person has a history of one or more violent acts, the court also shall forward, within three judicial days after entry of the commitment order, or dismissal of charges, a copy of the person's driver's license, or comparable information, along with the date of commitment or date charges are dismissed, to the national instant criminal background check system index, denied persons file, created by the federal Brady handgun violence prevention act (P.L. 103-159). The petitioning party shall provide the court with the information required. If more than one commitment order is entered under one cause number, only one notification to the department of licensing, the Washington state patrol firearms background check program, and the national instant criminal background check system is required.

(2) Upon receipt of the information provided for by subsection (1) of this section, the department of licensing shall determine if the convicted or committed person, or the person whose charges are dismissed based on incompetency to stand trial, has a concealed pistol license. If the person does have a concealed pistol license, the department of licensing shall immediately notify the license-issuing authority which, upon receipt of such notification, shall immediately revoke the license.

(3)(a) A person who is prohibited from possessing a firearm, by reason of having been involuntarily committed for mental health treatment under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, chapter 10.77 RCW, or equivalent statutes of another jurisdiction, or by reason of having been detained under RCW 71.05.150 or 71.05.153, or because the person's charges were dismissed based on incompetency to stand trial under RCW 10.77.088 and the court made a finding that the person has a history of one or more violent acts, may, upon discharge, petition the superior court to have his or her right to possess a firearm restored.

(b) The petition must be brought in the superior court that ordered the involuntary commitment or dismissed the charges based on incompetency to stand trial or the superior court of the county in which the petitioner resides.

(c) Except as provided in (d) and (e) of this subsection, the court shall restore the petitioner's right to possess a firearm if the petitioner proves by a preponderance of the evidence that:

(i) The petitioner is no longer required to participate in court-ordered inpatient or outpatient treatment;

(ii) The petitioner has successfully managed the condition related to the commitment or detention or incompetency;

(iii) The petitioner no longer presents a substantial danger to himself or herself, or the public; and

(iv) The symptoms related to the commitment or detention or incompetency are not reasonably likely to recur.

(d) If a preponderance of the evidence in the record supports a finding that the person petitioning the court has engaged in violence and that it is more likely than not that the person will engage in violence after his or her right to possess a firearm is restored, the person shall bear the burden of proving by clear, cogent, and convincing evidence that he or she does not present a substantial danger to the safety of others.

(e) If the petitioner seeks restoration after having been detained under RCW 71.05.150 or 71.05.153, the state shall bear the burden of proof to show, by a preponderance of the evidence, that the petitioner does not meet the restoration criteria in (c) of this subsection.

(f) When a person's right to possess a firearm has been restored under this subsection, the court shall forward, within three judicial days after entry of the restoration order, notification that the person's right to possess a firearm has been restored to the department of licensing and the Washington state patrol criminal records division, with a copy of the person's driver's license or identicard, or comparable identification such as their name, address, and date of birth, and to the health care authority, and the national instant criminal background check system index, denied persons file. In the case of a person whose right to possess a firearm has been suspended for six months as provided in RCW 71.05.182, the department of licensing shall forward notification of the restoration order to the licensing authority, which, upon receipt of such notification, shall immediately lift the suspension, restoring the person's concealed pistol license.

(4) No person who has been found not guilty by reason of insanity may petition a court for restoration of the right to possess a firearm unless the person meets the requirements for the restoration of the right to possess a firearm under RCW 9.41.040(4).

Sec. 4. RCW 9.41.092 and 2019 c 3 s 4 are each amended to read as follows:

(((~~(1)~~))) Except as otherwise provided in this chapter ((~~and except for semiautomatic assault rifles under subsection (2) of this section~~)), a licensed dealer may not deliver any firearm to a purchaser or transferee until ((~~the earlier of~~)):

(((~~(a)~~))) (1) The results of all required background checks are known and the purchaser or transferee (((~~(i)~~))) (a) is not prohibited from owning or possessing a firearm under federal or state law and (((~~(ii)~~))) (b) does not have a voluntary waiver of firearm rights currently in effect; ((~~or~~)) and

(((~~(b)~~))) (2) Ten business days have elapsed from the date the licensed dealer requested the background check. ((~~However, for sales and transfers of pistols if the purchaser or transferee does not have a valid permanent Washington driver's license or state identification card or has not been a resident of the state for the previous consecutive ninety days, then the time period in this subsection shall be extended from ten business days to sixty days.~~

~~(2) Except as otherwise provided in this chapter, a licensed dealer may not deliver a semiautomatic assault rifle to a purchaser or transferee until ten business days have elapsed from the date of the purchase application or, in the case of a transfer, ten business days have elapsed from the date a background check is initiated.~~))

Sec. 5. RCW 9.41.094 and 2019 c 3 s 7 are each amended to read as follows:

A signed application to purchase a ((~~pistol or semiautomatic assault rifle~~)) firearm shall constitute a waiver of confidentiality and written request that the health care authority, mental health institutions, and other health care facilities release((~~, to an inquiring court or law enforcement agency,~~)) information relevant to the applicant's eligibility to purchase a ((~~pistol or semiautomatic assault rifle~~)) firearm to an inquiring court ((~~or~~)), law enforcement agency, or the Washington state patrol firearms background check program.

Sec. 6. RCW 9.41.097 and 2019 c 3 s 8 are each amended to read as follows:

(1) The health care authority, mental health institutions, and other health care facilities shall, upon request of a court, law enforcement agency, or the state, supply such relevant information as is necessary to determine the eligibility of a person to possess a firearm ((~~or~~)), to be issued a concealed pistol license under RCW 9.41.070, or to purchase a ((~~pistol or semiautomatic assault rifle~~)) firearm under RCW 9.41.090.

(2) Mental health information received by: (a) The department of licensing pursuant to RCW 9.41.047 or 9.41.173; (b) an issuing authority pursuant to RCW 9.41.047 or 9.41.070; (c) a chief of police or sheriff pursuant to RCW 9.41.090 or 9.41.173; (d) a court or law enforcement agency pursuant to subsection (1) of this section; or (e) the Washington state patrol firearms background check program pursuant to RCW 9.41.090, shall not be disclosed except as provided in RCW 42.56.240(4).

Sec. 7. RCW 9.41.0975 and 2019 c 3 s 9 are each amended to read as follows:

(1) The state, local governmental entities, any public or private agency, and the employees of any state or local governmental entity or public or private agency, acting in good faith, are immune from liability:

(a) For failure to prevent the sale or transfer of a firearm to a person whose receipt or possession of the firearm is unlawful;

(b) For preventing the sale or transfer of a firearm to a person who may lawfully receive or possess a firearm;

(c) For issuing a concealed pistol license or alien firearm license to a person ineligible for such a license;

(d) For failing to issue a concealed pistol license or alien firearm license to a person eligible for such a license;

(e) For revoking or failing to revoke an issued concealed pistol license or alien firearm license;

(f) For errors in preparing or transmitting information as part of determining a person's eligibility to receive or possess a firearm, or eligibility for a concealed pistol license or alien firearm license;

(g) For issuing a dealer's license to a person ineligible for such a license; or

(h) For failing to issue a dealer's license to a person eligible for such a license.

(2) An application may be made to a court of competent jurisdiction for a writ of mandamus:

(a) Directing an issuing agency to issue a concealed pistol license or alien firearm license wrongfully refused;

(b) Directing ((~~a law enforcement agency~~)) the Washington state patrol firearms background check program to approve an application to purchase a ((~~pistol or semiautomatic assault rifle~~)) firearm wrongfully denied;

(c) Directing that erroneous information resulting either in the wrongful refusal to issue a concealed pistol license or alien firearm license or in the wrongful denial of a purchase application for a ((~~pistol or semiautomatic assault rifle~~)) firearm be corrected; or

(d) Directing a law enforcement agency to approve a dealer's license wrongfully denied.

The application for the writ may be made in the county in which the application for a concealed pistol license or alien firearm license or an application to purchase a ((~~pistol or semiautomatic assault rifle~~)) firearm was made, or in Thurston county, at the discretion of the petitioner. A court shall provide an expedited hearing for an application brought under this subsection (2) for a writ of mandamus. A person granted a writ of mandamus under this subsection (2) shall be awarded reasonable attorneys' fees and costs.

Sec. 8. RCW 9.41.110 and 2019 c 3 s 10 are each amended to read as follows:

(1) No dealer may sell or otherwise transfer, or expose for sale or transfer, or have in his or her possession with intent to sell, or otherwise transfer, any pistol without being licensed as provided in this section.

(2) No dealer may sell or otherwise transfer, or expose for sale or transfer, or have in his or her possession with intent to sell, or otherwise transfer, any firearm other than a pistol without being licensed as provided in this section.

(3) No dealer may sell or otherwise transfer, or expose for sale or transfer, or have in his or her possession with intent to sell, or otherwise transfer, any ammunition without being licensed as provided in this section.

(4) The duly constituted licensing authorities of any city, town, or political subdivision of this state shall grant licenses in forms prescribed by the director of licensing effective for not more than one year from the date of issue permitting the licensee to sell firearms within this state subject to the following conditions, for breach of any of which the license shall be forfeited and the licensee subject to punishment as provided in ((~~RCW 9.41.010 through 9.41.810~~)) this chapter. A licensing authority shall forward a copy of each license granted to the department of licensing. The department of licensing shall notify the department of revenue of the name and address of each dealer licensed under this section.

(5)(a) A licensing authority shall, within thirty days after the filing of an application of any person for a dealer's license, determine whether to grant the license. However, if the applicant does not have a valid permanent Washington driver's license or Washington state identification card, or has not been a resident of the state for the previous consecutive ninety days, the licensing authority shall have up to sixty days to determine whether to issue a license. No person shall qualify for a license under this section without first receiving a federal firearms license and undergoing fingerprinting and a background check. In addition, no person ineligible to possess a firearm under RCW 9.41.040 or ineligible for a concealed pistol license under RCW 9.41.070 shall qualify for a dealer's license.

(b) A dealer shall require every employee who may sell a firearm in the course of his or her employment to undergo fingerprinting and a background check. An employee must be eligible to possess a firearm, and must not have been convicted of a crime that would make the person ineligible for a concealed pistol license, before being permitted to sell a firearm. Every employee shall comply with requirements concerning purchase applications and restrictions on delivery of ((~~pistols or semiautomatic assault rifles~~)) firearms that are applicable to dealers.

(6)(a) Except as otherwise provided in (b) of this subsection, the business shall be carried on only in the building designated in the license. For the purpose of this section, advertising firearms for sale shall not be considered the carrying on of business.

(b) A dealer may conduct business temporarily at a location other than the building designated in the license, if the temporary location is within Washington state and is the location of a gun show sponsored by a national, state, or local organization, or an affiliate of any such organization, devoted to the collection, competitive use, or other sporting use of firearms in the community. Nothing in this subsection (6)(b) authorizes a dealer to conduct business in or from a motorized or towed vehicle.

In conducting business temporarily at a location other than the building designated in the license, the dealer shall comply with all other requirements imposed on dealers by RCW 9.41.090, 9.41.100, and this section. The license of a dealer who fails to comply with the requirements of RCW 9.41.080 and 9.41.090 and subsection (8) of this section while conducting business at a temporary location shall be revoked, and the dealer shall be permanently ineligible for a dealer's license.

(7) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises in the area where firearms are sold, or at the temporary location, where it can easily be read.

(8)(a) No ((~~pistol or semiautomatic assault rifle~~)) firearm may be sold: (i) In violation of any provisions of ((~~RCW 9.41.010 through 9.41.810~~)) this chapter; nor (ii) ((~~may a pistol or semiautomatic assault rifle be sold~~)) under any circumstances unless the purchaser is personally known to the dealer or shall present clear evidence of his or her identity.

(b) A dealer who sells or delivers any firearm in violation of RCW 9.41.080 is guilty of a class C felony. In addition to any other penalty provided for by law, the dealer is subject to mandatory permanent revocation of his or her dealer's license and permanent ineligibility for a dealer's license.

(c) The license fee for pistols shall be one hundred twenty-five dollars. The license fee for firearms other than pistols shall be one hundred twenty-five dollars. The license fee for ammunition shall be one hundred twenty-five dollars. Any dealer who obtains any license under subsection (1), (2), or (3) of this section may also obtain the remaining licenses without payment of any fee. The fees received under this section shall be deposited in the state general fund.

(9)(a) A true record ((~~in triplicate~~)) shall be made of every pistol or semiautomatic assault rifle sold, in a book kept for the purpose, the form of which may be prescribed by the director of licensing and shall be personally signed by the purchaser and by the person effecting the sale, each in the presence of the other, and shall contain the date of sale, the caliber, make, model and manufacturer's number of the weapon, the name, address, occupation, and place of birth of the purchaser, and a statement signed by the purchaser that he or she is not ineligible under state or federal law to possess a firearm. The dealer shall retain the transfer record for six years.

(b) ((~~One copy shall within six hours be sent by certified mail to the chief of police of the municipality or the sheriff of the county of which the purchaser is a resident, or the state pursuant to RCW 9.41.090; the duplicate the dealer shall within seven days send to the director of licensing; the triplicate the dealer shall retain for six years.~~)) The dealer shall transmit the information from the firearm transfer application through secure automated firearms e-check (SAFE) to the Washington state patrol firearms background check program. The Washington state patrol firearms background check program shall transmit the application information for pistol and semiautomatic assault rifle transfer applications to the director of licensing daily. The original application shall be retained by the dealer for six years.

(10) Subsections (2) through (9) of this section shall not apply to sales at wholesale.

(11) The dealer's licenses authorized to be issued by this section are general licenses covering all sales by the licensee within the effective period of the licenses. The department shall provide a single application form for dealer's licenses and a single license form which shall indicate the type or types of licenses granted.

(12) Except as otherwise provided in ((~~RCW 9.41.090~~)) this chapter, every city, town, and political subdivision of this state is prohibited from requiring the purchaser to secure a permit to purchase or from requiring the dealer to secure an individual permit for each sale.

Sec. 9. RCW 9.41.1135 and 2020 c 28 s 4 are each amended to read as follows:

(1) Beginning on the date that is thirty days after the Washington state patrol issues a notification to dealers that a state firearms background check system is established within the Washington state patrol under RCW 43.43.580, a dealer shall use the Washington state patrol firearms background check ((~~system~~)) program to conduct background checks for all firearms transfers. A dealer may not sell or transfer a firearm to an individual unless the dealer first contacts the Washington state patrol firearms background check program for a background check to determine the eligibility of the purchaser or transferee to possess a firearm under state and federal law and the requirements and time periods established in RCW 9.41.090 and 9.41.092 have been satisfied. ((~~When an applicant applies for the purchase or transfer of a pistol or semiautomatic assault rifle, a dealer shall comply with all requirements of this chapter that apply to the sale or transfer of a pistol or semiautomatic rifle. The purchase or transfer of a firearm that is not a pistol or semiautomatic assault rifle must be processed in the same manner and under the same requirements of this chapter that apply to the sale or transfer of a pistol, except that the provisions of RCW 9.41.129, and the requirement in RCW 9.41.110(9)(b) concerning transmitting application records to the director of licensing, shall not apply to these transactions.~~))

(2) A dealer shall charge a purchaser or transferee a background check fee in an amount determined by the Washington state patrol and remit the proceeds from the fee to the Washington state patrol on a monthly basis. The background check fee does not apply to any background check conducted in connection with a pawnbroker's receipt of a pawned firearm or the redemption of a pawned firearm.

(3) This section does not apply to sales or transfers to licensed dealers or to the sale or transfer of an antique firearm.

NEW SECTION. **Sec. 10.** 2019 c 244 s 1 is repealed.

NEW SECTION. **Sec. 11.** This act takes effect January 1, 2024.

NEW SECTION. **Sec. 12.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void.

Passed by the House April 14, 2023.
Passed by the Senate April 7, 2023.
Approved by the Governor April 25, 2023.
Filed in Office of Secretary of State April 25, 2023.

CHAPTER 162

[Substitute House Bill 1240]

FIREARMS—ASSAULT WEAPONS BAN

AN ACT Relating to establishing firearms-related safety measures to increase public safety by prohibiting the manufacture, importation, distribution, selling, and offering for sale of assault weapons, and by providing limited exemptions applicable to licensed firearm manufacturers and dealers for purposes of sale to armed forces branches and law enforcement agencies and for purposes of sale or transfer outside the state, and to inheritors; reenacting and amending RCW 9.41.010; adding new sections to chapter 9.41 RCW; creating a new section; prescribing penalties; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds and declares that gun violence is a threat to the public health and safety of Washingtonians. Assault weapons are civilian versions of weapons created for the military and are designed to kill humans quickly and efficiently. For this reason the legislature finds that assault weapons are "like" "M-16 rifles" and thus are "weapons most useful in military service." Assault weapons have been used in the deadliest mass shootings in the last decade. An assailant with an assault weapon can hurt and kill twice the number of people than an assailant with a handgun or nonassault rifle. This is because the additional features of an assault weapon are not "merely cosmetic"; rather, these are features that allow shooters to fire large numbers of rounds quickly. An analysis of mass shootings that result in four or more deaths found that 85 percent of those fatalities were caused by an assault weapon. The legislature also finds that this regulation is likely to have an impact on the number of mass shootings committed in Washington. Studies have shown that during the period the federal assault weapon ban was in effect, mass shooting fatalities were 70 percent less likely to occur. Moreover, the legislature finds that assault weapons are not suitable for self-defense and that studies show that assault weapons are statistically not used in self-defense. The legislature finds that assault weapons are not commonly used in self-defense and that any proliferation is not the result of the assault weapon being well-suited for self-defense, hunting, or sporting purposes. Rather, increased sales are the result of the gun industry's concerted efforts to sell more guns to a civilian market. The legislature finds that the gun industry has specifically marketed these weapons as "tactical," "hyper masculine," and "military style" in manner that overtly appeals to troubled young men intent on becoming the next mass shooter. The legislature intends to limit the prospective sale of assault weapons, while allowing existing legal owners to retain the assault weapons they currently own.

Sec. 2. RCW 9.41.010 and 2022 c 105 s 2 and 2022 c 104 s 2 are each reenacted and amended to read as follows:

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

(1) "Antique firearm" means a firearm or replica of a firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898, including any matchlock, flintlock, percussion cap, or similar type of ignition system and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(2)(a) "Assault weapon" means:

(i) Any of the following specific firearms regardless of which company produced and manufactured the firearm:

AK-47 in all forms
AK-74 in all forms
Algimec AGM-1 type semiautomatic
American Arms Spectre da semiautomatic carbine

AR15, M16, or M4 in all forms
AR 180 type semiautomatic
Argentine L.S.R. semiautomatic
Australian Automatic
Auto-Ordnance Thompson M1 and 1927 semiautomatics
Barrett .50 cal light semiautomatic
Barrett .50 cal M87
Barrett .50 cal M107A1
Barrett REC7
Beretta AR70/S70 type semiautomatic
Bushmaster Carbon 15
Bushmaster ACR
Bushmaster XM-15
Bushmaster MOE
Calico models M100 and M900
CETME Sporter
CIS SR 88 type semiautomatic
Colt CAR 15
Daewoo K-1
Daewoo K-2
Dragunov semiautomatic
Fabrique Nationale FAL in all forms
Fabrique Nationale F2000
Fabrique Nationale L1A1 Sporter
Fabrique Nationale M249S
Fabrique Nationale PS90
Fabrique Nationale SCAR
FAMAS .223 semiautomatic
Galil
Heckler & Koch G3 in all forms
Heckler & Koch HK-41/91
Heckler & Koch HK-43/93
Heckler & Koch HK94A2/3
Heckler & Koch MP-5 in all forms
Heckler & Koch PSG-1
Heckler & Koch SL8
Heckler & Koch UMP

Manchester Arms Commando MK-45
Manchester Arms MK-9
SAR-4800
SIG AMT SG510 in all forms
SIG SG550 in all forms
SKS
Spectre M4
Springfield Armory BM-59
Springfield Armory G3
Springfield Armory SAR-8
Springfield Armory SAR-48
Springfield Armory SAR-3
Springfield Armory M-21 sniper
Springfield Armory M1A
Smith & Wesson M&P 15
Sterling Mk 1
Sterling Mk 6/7
Steyr AUG
TNW M230
FAMAS F11
Uzi 9mm carbine/rifle

(ii) A semiautomatic rifle that has an overall length of less than 30 inches;

(iii) A conversion kit, part, or combination of parts, from which an assault weapon can be assembled or from which a firearm can be converted into an assault weapon if those parts are in the possession or under the control of the same person; or

(iv) A semiautomatic, center fire rifle that has the capacity to accept a detachable magazine and has one or more of the following:

(A) A grip that is independent or detached from the stock that protrudes conspicuously beneath the action of the weapon. The addition of a fin attaching the grip to the stock does not exempt the grip if it otherwise resembles the grip found on a pistol;

(B) Thumbhole stock;

(C) Folding or telescoping stock;

(D) Forward pistol, vertical, angled, or other grip designed for use by the nonfiring hand to improve control;

(E) Flash suppressor, flash guard, flash eliminator, flash hider, sound suppressor, silencer, or any item designed to reduce the visual or audio signature of the firearm;

(F) Muzzle brake, recoil compensator, or any item designed to be affixed to the barrel to reduce recoil or muzzle rise;

(G) Threaded barrel designed to attach a flash suppressor, sound suppressor, muzzle break, or similar item;

(H) Grenade launcher or flare launcher; or

(I) A shroud that encircles either all or part of the barrel designed to shield the bearer's hand from heat, except a solid forearm of a stock that covers only the bottom of the barrel;

(v) A semiautomatic, center fire rifle that has a fixed magazine with the capacity to accept more than 10 rounds;

(vi) A semiautomatic pistol that has the capacity to accept a detachable magazine and has one or more of the following:

(A) A threaded barrel, capable of accepting a flash suppressor, forward handgrip, or silencer;

(B) A second hand grip;

(C) A shroud that encircles either all or part of the barrel designed to shield the bearer's hand from heat, except a solid forearm of a stock that covers only the bottom of the barrel; or

(D) The capacity to accept a detachable magazine at some location outside of the pistol grip;

(vii) A semiautomatic shotgun that has any of the following:

(A) A folding or telescoping stock;

(B) A grip that is independent or detached from the stock that protrudes conspicuously beneath the action of the weapon. The addition of a fin attaching the grip to the stock does not exempt the grip if it otherwise resembles the grip found on a pistol;

(C) A thumbhole stock;

(D) A forward pistol, vertical, angled, or other grip designed for use by the nonfiring hand to improve control;

(E) A fixed magazine in excess of seven rounds; or

(F) A revolving cylinder shotgun.

(b) For the purposes of this subsection, "fixed magazine" means an ammunition feeding device contained in, or permanently attached to, a firearm in such a manner that the device cannot be removed without disassembly of the firearm action.

(c) "Assault weapon" does not include antique firearms, any firearm that has been made permanently inoperable, or any firearm that is manually operated by bolt, pump, lever, or slide action.

(3) "Assemble" means to fit together component parts.

(((~~(3)~~))) (4) "Barrel length" means the distance from the bolt face of a closed action down the length of the axis of the bore to the crown of the muzzle, or in the case of a barrel with attachments to the end of any legal device permanently attached to the end of the muzzle.

(((~~(4)~~))) (5) "Bump-fire stock" means a butt stock designed to be attached to a semiautomatic firearm with the effect of increasing the rate of fire achievable with the semiautomatic firearm to that of a fully automatic firearm by using the energy from the recoil of the firearm to generate reciprocating action that facilitates repeated activation of the trigger.

(((~~(5)~~))) (6) "Crime of violence" means:

(a) Any of the following felonies, as now existing or hereafter amended: Any felony defined under any law as a class A felony or an attempt to commit a

class A felony, criminal solicitation of or criminal conspiracy to commit a class A felony, manslaughter in the first degree, manslaughter in the second degree, indecent liberties if committed by forcible compulsion, kidnapping in the second degree, arson in the second degree, assault in the second degree, assault of a child in the second degree, extortion in the first degree, burglary in the second degree, residential burglary, and robbery in the second degree;

(b) Any conviction for a felony offense in effect at any time prior to June 6, 1996, which is comparable to a felony classified as a crime of violence in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense comparable to a felony classified as a crime of violence under (a) or (b) of this subsection.

((~~(6)~~)) (7) "Curio or relic" has the same meaning as provided in 27 C.F.R. Sec. 478.11.

((~~(7)~~)) (8) "Dealer" means a person engaged in the business of selling firearms at wholesale or retail who has, or is required to have, a federal firearms license under 18 U.S.C. Sec. 923(a). A person who does not have, and is not required to have, a federal firearms license under 18 U.S.C. Sec. 923(a), is not a dealer if that person makes only occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or sells all or part of his or her personal collection of firearms.

((~~(8)~~)) (9) "Detachable magazine" means an ammunition feeding device that can be loaded or unloaded while detached from a firearm and readily inserted into a firearm.

(10) "Distribute" means to give out, provide, make available, or deliver a firearm or large capacity magazine to any person in this state, with or without consideration, whether the distributor is in-state or out-of-state. "Distribute" includes, but is not limited to, filling orders placed in this state, online or otherwise. "Distribute" also includes causing a firearm or large capacity magazine to be delivered in this state.

((~~(9)~~)) (11) "Family or household member" has the same meaning as in RCW 7.105.010.

((~~(10)~~)) (12) "Federal firearms dealer" means a licensed dealer as defined in 18 U.S.C. Sec. 921(a)(11).

((~~(11)~~)) (13) "Federal firearms importer" means a licensed importer as defined in 18 U.S.C. Sec. 921(a)(9).

((~~(12)~~)) (14) "Federal firearms manufacturer" means a licensed manufacturer as defined in 18 U.S.C. Sec. 921(a)(10).

((~~(13)~~)) (15) "Felony" means any felony offense under the laws of this state or any federal or out-of-state offense comparable to a felony offense under the laws of this state.

((~~(14)~~)) (16) "Felony firearm offender" means a person who has previously been convicted or found not guilty by reason of insanity in this state of any felony firearm offense. A person is not a felony firearm offender under this chapter if any and all qualifying offenses have been the subject of an expungement, pardon, annulment, certificate, or rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted or a pardon, annulment, or other equivalent procedure based on a finding of innocence.

((~~(15)~~)) (17) "Felony firearm offense" means:

(a) Any felony offense that is a violation of this chapter;

(b) A violation of RCW 9A.36.045;

(c) A violation of RCW 9A.56.300;

(d) A violation of RCW 9A.56.310;

(e) Any felony offense if the offender was armed with a firearm in the commission of the offense.

(((~~(16)~~))) (18) "Firearm" means a weapon or device from which a projectile or projectiles may be fired by an explosive such as gunpowder. "Firearm" does not include a flare gun or other pyrotechnic visual distress signaling device, or a powder-actuated tool or other device designed solely to be used for construction purposes.

(((~~(17)~~))) (19)(a) "Frame or receiver" means a part of a firearm that, when the complete firearm is assembled, is visible from the exterior and provides housing or a structure designed to hold or integrate one or more fire control components, even if pins or other attachments are required to connect the fire control components. Any such part identified with a serial number shall be presumed, absent an official determination by the bureau of alcohol, tobacco, firearms, and explosives or other reliable evidence to the contrary, to be a frame or receiver.

(b) For purposes of this subsection, "fire control component" means a component necessary for the firearm to initiate, complete, or continue the firing sequence, including any of the following: Hammer, bolt, bolt carrier, breechblock, cylinder, trigger mechanism, firing pin, striker, or slide rails.

(((~~(18)~~))) (20) "Gun" has the same meaning as firearm.

(((~~(19)~~))) (21) "Import" means to move, transport, or receive an item from a place outside the territorial limits of the state of Washington to a place inside the territorial limits of the state of Washington. "Import" does not mean situations where an individual possesses a large capacity magazine or assault weapon when departing from, and returning to, Washington state, so long as the individual is returning to Washington in possession of the same large capacity magazine or assault weapon the individual transported out of state.

(((~~(20)~~))) (21) "Intimate partner" has the same meaning as provided in RCW 7.105.010.

(((~~(21)~~))) (22) "Large capacity magazine" means an ammunition feeding device with the capacity to accept more than 10 rounds of ammunition, or any conversion kit, part, or combination of parts, from which such a device can be assembled if those parts are in possession of or under the control of the same person, but shall not be construed to include any of the following:

(a) An ammunition feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds of ammunition;

(b) A 22 caliber tube ammunition feeding device; or

(c) A tubular magazine that is contained in a lever-action firearm.

(((~~(22)~~))) (24) "Law enforcement officer" includes a general authority Washington peace officer as defined in RCW 10.93.020, or a specially commissioned Washington peace officer as defined in RCW 10.93.020. "Law enforcement officer" also includes a limited authority Washington peace officer as defined in RCW 10.93.020 if such officer is duly authorized by his or her employer to carry a concealed pistol.

(((~~(23)~~))) (25) "Lawful permanent resident" has the same meaning afforded a person "lawfully admitted for permanent residence" in 8 U.S.C. Sec. 1101(a)(20).

(((~~(24)~~))) (26) "Licensed collector" means a person who is federally licensed under 18 U.S.C. Sec. 923(b).

(((~~(25)~~))) (27) "Licensed dealer" means a person who is federally licensed under 18 U.S.C. Sec. 923(a).

(((~~(26)~~))) (28) "Loaded" means:

(a) There is a cartridge in the chamber of the firearm;

(b) Cartridges are in a clip that is locked in place in the firearm;

(c) There is a cartridge in the cylinder of the firearm, if the firearm is a revolver;

(d) There is a cartridge in the tube or magazine that is inserted in the action; or

(e) There is a ball in the barrel and the firearm is capped or primed if the firearm is a muzzle loader.

(((~~(27)~~))) (29) "Machine gun" means any firearm known as a machine gun, mechanical rifle, submachine gun, or any other mechanism or instrument not requiring that the trigger be pressed for each shot and having a reservoir clip, disc, drum, belt, or other separable mechanical device for storing, carrying, or supplying ammunition which can be loaded into the firearm, mechanism, or instrument, and fired therefrom at the rate of five or more shots per second.

(((~~(28)~~))) (30) "Manufacture" means, with respect to a firearm or large capacity magazine, the fabrication, making, formation, production, or construction of a firearm or large capacity magazine, by manual labor or by machinery.

(((~~(29)~~))) (31) "Nonimmigrant alien" means a person defined as such in 8 U.S.C. Sec. 1101(a)(15).

(((~~(30)~~))) (32) "Person" means any individual, corporation, company, association, firm, partnership, club, organization, society, joint stock company, or other legal entity.

(((~~(31)~~))) (33) "Pistol" means any firearm with a barrel less than 16 inches in length, or is designed to be held and fired by the use of a single hand.

(((~~(32)~~))) (34) "Rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned, made or remade, and intended to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(((~~(33)~~))) (35) "Sale" and "sell" mean the actual approval of the delivery of a firearm in consideration of payment or promise of payment.

(((~~(34)~~))) (36) "Secure gun storage" means:

(a) A locked box, gun safe, or other secure locked storage space that is designed to prevent unauthorized use or discharge of a firearm; and

(b) The act of keeping an unloaded firearm stored by such means.

(((~~(35)~~))) (37) "Semiautomatic" means any firearm which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.

(38)(a) "Semiautomatic assault rifle" means any rifle which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.

(b) "Semiautomatic assault rifle" does not include antique firearms, any firearm that has been made permanently inoperable, or any firearm that is manually operated by bolt, pump, lever, or slide action.

(((~~(36)~~))) (39) "Serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies, as now existing or hereafter amended:

(a) Any crime of violence;

(b) Any felony violation of the uniform controlled substances act, chapter 69.50 RCW, that is classified as a class B felony or that has a maximum term of imprisonment of at least 10 years;

(c) Child molestation in the second degree;

(d) Incest when committed against a child under age 14;

(e) Indecent liberties;

(f) Leading organized crime;

(g) Promoting prostitution in the first degree;

(h) Rape in the third degree;

(i) Drive-by shooting;

(j) Sexual exploitation;

(k) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner;

(l) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(m) Any other class B felony offense with a finding of sexual motivation, as "sexual motivation" is defined under RCW 9.94A.030;

(n) Any other felony with a deadly weapon verdict under RCW 9.94A.825;

(o) Any felony offense in effect at any time prior to June 6, 1996, that is comparable to a serious offense, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious offense; or

(p) Any felony conviction under RCW 9.41.115.

(((~~(37)~~))) (40) "Short-barreled rifle" means a rifle having one or more barrels less than 16 inches in length and any weapon made from a rifle by any means of modification if such modified weapon has an overall length of less than 26 inches.

(((~~(38)~~))) (41) "Short-barreled shotgun" means a shotgun having one or more barrels less than 18 inches in length and any weapon made from a shotgun by any means of modification if such modified weapon has an overall length of less than 26 inches.

(((~~(39)~~))) (42) "Shotgun" means a weapon with one or more barrels, designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned, made or remade, and intended to use the energy of the

explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

(((~~(40)~~))) (43) "Transfer" means the intended delivery of a firearm to another person without consideration of payment or promise of payment including, but not limited to, gifts and loans. "Transfer" does not include the delivery of a firearm owned or leased by an entity licensed or qualified to do business in the state of Washington to, or return of such a firearm by, any of that entity's employees or agents, defined to include volunteers participating in an honor guard, for lawful purposes in the ordinary course of business.

(((~~(41)~~))) (44) "Undetectable firearm" means any firearm that is not as detectable as 3.7 ounces of 17-4 PH stainless steel by walk-through metal detectors or magnetometers commonly used at airports or any firearm where the barrel, the slide or cylinder, or the frame or receiver of the firearm would not generate an image that accurately depicts the shape of the part when examined by the types of X-ray machines commonly used at airports.

(((~~(42)~~))) (45)(a) "Unfinished frame or receiver" means a frame or receiver that is partially complete, disassembled, or inoperable, that: (i) Has reached a stage in manufacture where it may readily be completed, assembled, converted, or restored to a functional state; or (ii) is marketed or sold to the public to become or be used as the frame or receiver of a functional firearm once finished or completed, including without limitation products marketed or sold to the public as an 80 percent frame or receiver or unfinished frame or receiver.

(b) For purposes of this subsection:

(i) "Readily" means a process that is fairly or reasonably efficient, quick, and easy, but not necessarily the most efficient, speedy, or easy process. Factors relevant in making this determination, with no single one controlling, include the following: (A) Time, i.e., how long it takes to finish the process; (B) ease, i.e., how difficult it is to do so; (C) expertise, i.e., what knowledge and skills are required; (D) equipment, i.e., what tools are required; (E) availability, i.e., whether additional parts are required, and how easily they can be obtained; (F) expense, i.e., how much it costs; (G) scope, i.e., the extent to which the subject of the process must be changed to finish it; and (H) feasibility, i.e., whether the process would damage or destroy the subject of the process, or cause it to malfunction.

(ii) "Partially complete," as it modifies frame or receiver, means a forging, casting, printing, extrusion, machined body, or similar article that has reached a stage in manufacture where it is clearly identifiable as an unfinished component part of a firearm.

(((~~(43)~~))) (46) "Unlicensed person" means any person who is not a licensed dealer under this chapter.

(((~~(44)~~))) (47) "Untraceable firearm" means any firearm manufactured after July 1, 2019, that is not an antique firearm and that cannot be traced by law enforcement by means of a serial number affixed to the firearm by a federal firearms manufacturer, federal firearms importer, or federal firearms dealer in compliance with all federal laws and regulations.

NEW SECTION. **Sec. 3.** A new section is added to chapter 9.41 RCW to read as follows:

(1) No person in this state may manufacture, import, distribute, sell, or offer for sale any assault weapon, except as authorized in this section.

(2) Subsection (1) of this section does not apply to any of the following:

(a) The manufacture, importation, distribution, offer for sale, or sale of an assault weapon by a licensed firearms manufacturer for the purposes of sale to any branch of the armed forces of the United States or the state of Washington, or to any law enforcement agency for use by that agency or its employees for law enforcement purposes, or to a person who does not reside in this state;

(b) The importation, distribution, offer for sale, or sale of an assault weapon by a dealer that is properly licensed under federal and state law for the purpose of sale to any branch of the armed forces of the United States or the state of Washington, or to a law enforcement agency in this state for use by that agency or its employees for law enforcement purposes;

(c) The distribution, offer for sale, or sale of an assault weapon to or by a dealer that is properly licensed under federal and state law where the dealer acquires the assault weapon from an individual legally authorized to possess or transfer the assault weapon for the purpose of selling or transferring the assault weapon to a person who does not reside in this state. The purpose of this section is to allow individuals who no longer wish to own an assault weapon to sell their assault weapon and is not intended to allow Washington dealers to purchase assault weapons wholesale for the purpose of selling a stock or inventory of assault weapons online or in person to nonresidents;

(d) The out-of-state sale or transfer of the existing stock of assault weapons owned by a licensed dealer that was acquired prior to January 1, 2023, for the limited period of 90 days after the effective date of this section; or

(e) The receipt of an assault weapon by a person who, on or after the effective date of this section, acquires possession of the assault weapon by operation of law upon the death of the former owner who was in legal possession of the assault weapon, provided the person in possession of the assault weapon can establish such provenance. Receipt under this subsection (2)(e) is not "distribution" under this chapter. A person who legally receives an assault weapon under this subsection (2)(e) may not sell or transfer the assault weapon to any other person in this state other than to a licensed dealer, to a federally licensed gunsmith for the purpose of service or repair, or to a law enforcement agency for the purpose of permanently relinquishing the assault weapon.

(3) For the purposes of this section, "law enforcement agency" means any (a) general authority Washington law enforcement agency as defined in RCW 10.93.020; (b) limited authority Washington law enforcement agency as defined in RCW 10.93.020; or (c) equivalent federal, state, or local law enforcement agency in the United States.

(4) A person who violates this section is guilty of a gross misdemeanor.

NEW SECTION. **Sec. 4.** A new section is added to chapter 9.41 RCW to read as follows:

(1) The legislature finds that manufacturing, importing, distributing, selling, or offering for sale any assault weapon in violation of section 3 of this act are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW; are not reasonable in relation to the development and preservation of business; and constitutes an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.

(2) A violation of section 3 of this act is an unfair or deceptive act or practice or unfair method of competition in the conduct of trade or commerce for purposes of the consumer protection act, chapter 19.86 RCW.

(3) Any person or entity that receives a civil investigative demand issued pursuant to RCW 19.86.110 and that has an objection to answering in whole or in part may avail themselves of the procedural protections afforded in RCW 19.86.110(8). Further, the attorney general shall not share with a law enforcement agency conducting a criminal investigation any materials or information obtained via a response to a civil investigative demand issued pursuant to RCW 19.86.110 unless such information or materials are required to be disclosed pursuant to issuance of a search warrant.

NEW SECTION. **Sec. 5.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 6.** 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.

Passed by the House April 19, 2023.
Passed by the Senate April 18, 2023.
Approved by the Governor April 25, 2023.
Filed in Office of Secretary of State April 25, 2023.

CHAPTER 163

[Substitute Senate Bill 5078]

FIREARM INDUSTRY—DUTIES—PUBLIC NUISANCE

AN ACT Relating to protecting public safety by establishing duties of firearm industry members engaged in the sale, manufacturing, distribution, importing, or marketing of firearms, ammunition, component parts, or accessories, to adopt and implement reasonable controls to prevent the diversion of firearms and related products to straw purchasers, firearm traffickers, unauthorized individuals, and individuals who pose a risk to themselves or others, to prohibit such firearm industry members from creating or maintaining a public nuisance, and providing for investigation and enforcement by the attorney general; adding a new section to chapter 7.48 RCW; creating new sections; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature finds that the irresponsible, dangerous, and unlawful business practices by firearms industry members contributes to the illegal use of firearms and not only constitutes a public nuisance as declared in chapter 7.48 RCW, but that the effects of that nuisance exacerbate the public health crisis of gun violence in this state. The Washington state medical association, the Washington health alliance, and the voters of Washington, most recently through approval of Initiative 1639 in 2016, have all noted that crisis.

(2) The legislature further finds that public nuisance was established in state law by Washington's territorial legislature in 1875 and has been interpreted by the state supreme court for more than 100 years to enjoin the operation of illegal businesses as nuisance by individuals suffering special injury. Since at least 1895, public nuisance has included manufacturing and storing gunpowder and other highly explosive substances.

(3) Firearm industry members profit from the sale, manufacture, distribution, importing, and marketing of lethal products that are frequently used to threaten, injure, and kill people in Washington, and which cause enormous harms to individuals' and communities' health, safety, and well-being, as well as economic opportunity and vitality. While manufacturers have incorporated features and technology resulting in more deadly and destructive firearms, and products designed to be used with and for firearms, some actors in the firearm industry have implemented irresponsible and dangerous sales, distribution, importing, and marketing practices, including contributing to the development of an illegal secondary market for these increasingly dangerous products. Such practices lead to grave public harms and also provide an unfair business advantage to irresponsible firearm industry members over more responsible competitors who take reasonable precautions to protect others' lives and well-being.

(4) The federal protection of lawful commerce in arms act (PLCAA) recognizes the ability of states to enact and enforce statutes regulating the sale and marketing of firearms and related products, and expressly provides that causes of action may proceed where there are violations of such statutes.

(5) The legislature intends to ensure a level playing field for responsible firearm industry members, to incentivize firearm industry members to establish and implement safe and responsible business practices, and to ensure that the attorney general and members of the public in Washington who are harmed by a firearm industry member's violation of law may bring legal action to seek appropriate justice and fair remedies for those harms in court.

NEW SECTION. **Sec. 2.** A new section is added to chapter 7.48 RCW to read as follows:

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

(a) "Firearm industry member" means a person engaged in the wholesale or retail sale, manufacturing, distribution, importing, or marketing of a firearm industry product, or any officer or agent to act on behalf of such a person or who acts in active concert or participation with such a person.

(b) "Firearm industry product" means a product that meets any of the following conditions:

(i) The firearm industry product was sold, made, distributed, or marketed in this state;

(ii) The firearm industry product was intended to be sold, made, distributed, or marketed in this state; or

(iii) The firearm industry product was used or possessed in this state, and it was reasonably foreseeable that the product would be used or possessed in this state.

(c) "Firearm trafficker" means a person who acquires, transfers, or attempts to acquire or transfer a firearm for purposes of unlawful commerce including, but not limited to, a subsequent transfer to another individual who is prohibited from possessing the firearm industry product under state or federal law.

(d) "Person" means any natural person, firm, corporation, company, partnership, society, joint stock company, municipality or other political subdivision of the state, or any other entity or association.

(e) "Product" means:

(i) A firearm;

(ii) Ammunition;

(iii) A component part of a firearm or ammunition, including a completed frame or receiver or unfinished frame or receiver, as defined in RCW 9.41.010;

(iv) An accessory or device that is designed or adapted to be inserted into, affixed onto, or used in conjunction with a firearm, if the device is marketed or sold to the public and that is designed, intended, or able to be used to increase a firearm's rate of fire, concealability, magazine capacity, or destructive capacity, or to increase the firearm's stability and handling when the firearm is repeatedly fired;

(v) A machine or device that is marketed or sold to the public that is designed, intended, or able to be used to manufacture or produce a firearm or any other product listed in this subsection (1)(e).

(f) "Reasonable controls" means reasonable procedures, safeguards, and business practices, including but not limited to screening, security, and inventory practices, that are designed and implemented to do all of the following:

(i) Prevent the sale or distribution of a firearm industry product to a straw purchaser, a firearm trafficker, a person prohibited from possessing a firearm under state or federal law, or a person who the firearm industry member has reasonable cause to believe is at substantial risk of using a firearm industry product to harm themselves or unlawfully harm another, or of unlawfully possessing or using a firearm industry product;

(ii) Prevent the loss of a firearm industry product or theft of a firearm industry product from a firearm industry member; and

(iii) Ensure that the firearm industry member complies with all provisions of state and federal law and does not otherwise promote the unlawful sale, manufacture, distribution, importing, possession, marketing, or use of a firearm industry product.

(g) "Straw purchaser" means a person who wrongfully purchases or obtains a firearm industry product on behalf of a third party. "Straw purchaser" does not include one who makes a bona fide gift to a person who is not prohibited by law from possessing a firearm industry product. For the purposes of this subsection (1)(g), a gift is not a "bona fide gift" if the third party has offered or given the purchaser or transferee a service or thing of value in connection with the transaction.

(2) This section applies to a firearm industry member engaged in the manufacture, distribution, importation, marketing, or wholesale or retail sale of a firearm industry product.

(3) A firearm industry member shall not knowingly create, maintain, or contribute to a public nuisance in this state through the sale, manufacturing, distribution, importing, or marketing of a firearm industry product.

(4) A firearm industry member shall establish, implement, and enforce reasonable controls regarding its manufacture, sale, distribution, importing, use, and marketing of firearm industry products.

(5) A firearm industry member shall take reasonable precautions to ensure the firearm industry member does not sell or distribute a firearm industry product to a downstream distributor or retailer of firearm industry products that fails to establish and implement reasonable controls.

(6) A firearm industry member shall not manufacture, distribute, import, market, offer for wholesale, or offer for retail sale a firearm industry product that is:

(a) Designed, sold, or marketed in a manner that foreseeably promotes conversion of legal firearm industry products into illegal firearm industry products; or

(b) Designed, sold, or marketed in a manner that is targeted at minors or individuals who are legally prohibited from purchasing or possessing firearms.

(7) A violation of this section is a public nuisance.

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

(9) A firearm industry member's conduct in violation of any provision of this section constitutes a proximate cause of the public nuisance if the harm is a reasonably foreseeable effect of the conduct, notwithstanding any intervening actions, including but not limited to criminal actions by third parties. This subsection is not intended to establish a causation requirement for a claim brought by the attorney general pursuant to the consumer protection act, chapter 19.86 RCW.

(10) Whenever it appears to the attorney general that a firearm industry member has engaged in or is engaging in conduct in violation of this section, the attorney general may commence an action to seek and obtain any remedies available for violations of this chapter, and may also seek and obtain punitive damages up to an amount not to exceed three times the actual damages sustained by the state, reasonable attorneys' fees, and costs of the action.

(11) Whenever the attorney general believes that any person (a) may be in possession, custody, or control of any information which he or she believes to be relevant to the subject matter of an investigation of a possible violation of this section, or (b) may have knowledge of any information which the attorney general believes relevant to the subject matter of such an investigation, the attorney general may, prior to the institution of a civil proceeding thereon, execute in writing and cause to be served upon such a person, a civil investigative demand requiring such person to produce such documentary material and permit inspection and copying, to answer in writing written interrogatories, to give oral testimony, or any combination of such demands pertaining to such documentary material or information, subject to the provisions of RCW 19.86.110 (2) through (9). Any person or entity that receives a civil investigative demand issued pursuant to RCW 19.86.110 and that has an objection to answering in whole or in part may avail themselves of the procedural protections afforded in RCW 19.86.110(8). Further, the attorney general shall not share with a law enforcement agency conducting a criminal investigation any materials or information obtained via a response to a civil investigative demand issued pursuant to RCW 19.86.110 unless such information or materials are required to be disclosed pursuant to issuance of a search warrant.

(12) The attorney general's authority to investigate a possible violation of this section and commence a legal action in response to a violation of this section shall not be construed or implied to deny, abrogate, limit, or impair any person's right to bring a private right of action in response to a violation of this section pursuant to (a) RCW 7.48.200 and 7.48.210, to seek damages, abatement, or any other remedy available for a public nuisance, or (b) chapter 19.86 RCW, to seek damages, equitable relief, or any other remedy available under the consumer protection act.

(13) To prevail in an action under this section, the party seeking relief is not required to demonstrate that the firearm industry member acted with the purpose to engage in a public nuisance or otherwise cause harm to the public.

(14) Nothing in this section shall be construed or implied to deny, abrogate, limit, or impair in any way any of the following:

(a) The right of the attorney general to pursue a legal action under any other law, including chapter 19.86 RCW; or

(b) An obligation or requirement placed on a firearm industry member by any other law.

(15) Nothing in this section shall be construed or implied to deny, abrogate, limit, or impair any statutory or common law right, remedy, or prohibition otherwise available to any party, including the attorney general.

NEW SECTION. **Sec. 3.** This act is known as the firearm industry responsibility and gun violence victims' access to justice act.

NEW SECTION. **Sec. 4.** 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.

Passed by the Senate April 14, 2023.
Passed by the House April 10, 2023.
Approved by the Governor April 25, 2023.
Filed in Office of Secretary of State April 25, 2023.

CHAPTER 164

[House Bill 1008]

SEPARATED PUBLIC EMPLOYEE BENEFITS—PLAN 2—PUBLIC EMPLOYEES' BENEFITS BOARD

AN ACT Relating to participating in insurance plans and contracts by separated plan 2 members of certain retirement systems; amending RCW 41.05.011; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 41.05.011 and 2019 c 411 s 4 are each amended to read as follows:

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

(1) "Authority" means the Washington state health care authority.

(2) "Board" means the public employees' benefits board established under RCW 41.05.055 and the school employees' benefits board established under RCW 41.05.740.

(3) "Dependent care assistance program" means a benefit plan whereby employees and school employees may pay for certain employment related

dependent care with pretax dollars as provided in the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec. 129 or other sections of the internal revenue code.

(4) "Director" means the director of the authority.

(5) "Emergency service personnel killed in the line of duty" means law enforcement officers and firefighters as defined in RCW 41.26.030, members of the Washington state patrol retirement fund as defined in RCW 43.43.120, and reserve officers and firefighters as defined in RCW 41.24.010 who die as a result of injuries sustained in the course of employment as determined consistent with Title 51 RCW by the department of labor and industries.

(6)(a) "Employee" for the public employees' benefits board program includes all employees of the state, whether or not covered by civil service; elected and appointed officials of the executive branch of government, including full-time members of boards, commissions, or committees; justices of the supreme court and judges of the court of appeals and the superior courts; and members of the state legislature. Pursuant to contractual agreement with the authority, "employee" may also include: (i) Employees of a county, municipality, or other political subdivision of the state and members of the legislative authority of any county, city, or town who are elected to office after February 20, 1970, if the legislative authority of the county, municipality, or other political subdivision of the state submits application materials to the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.04.205 and 41.05.021(1)(g); (ii) employees of employee organizations representing state civil service employees, at the option of each such employee organization; (iii) through December 31, 2019, employees of a school district if the authority agrees to provide any of the school districts' insurance programs by contract with the authority as provided in RCW 28A.400.350; (iv) employees of a tribal government, if the governing body of the tribal government seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.05.021(1) (f) and (g); (v) employees of the Washington health benefit exchange if the governing board of the exchange established in RCW 43.71.020 seeks and receives approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.05.021(1) (g) and (n); and (vi) through December 31, 2019, employees of a charter school established under chapter 28A.710 RCW. "Employee" does not include: Adult family home providers; unpaid volunteers; patients of state hospitals; inmates; employees of the Washington state convention and trade center as provided in RCW 41.05.110; students of institutions of higher education as determined by their institution; and any others not expressly defined as employees under this chapter or by the authority under this chapter.

(b) Effective January 1, 2020, "school employee" for the school employees' benefits board program includes:

(i) All employees of school districts and charter schools established under chapter 28A.710 RCW;

(ii) Represented employees of educational service districts; and

(iii) Effective January 1, 2024, all employees of educational service districts.

(7) "Employee group" means employees of a similar employment type, such as administrative, represented classified, nonrepresented classified excluding such employees in educational service districts until December 31, 2023, confidential, represented certificated, or nonrepresented certificated excluding such employees in educational service districts until December 31, 2023, within a school employees' benefits board organization.

(8)(a) "Employer" for the public employees' benefits board program means the state of Washington.

(b) "Employer" for the school employees' benefits board program means school districts and educational service districts and charter schools established under chapter 28A.710 RCW.

(9) "Employer group" means those counties, municipalities, political subdivisions, the Washington health benefit exchange, tribal governments, employee organizations representing state civil service employees, and through December 31, 2019, school districts, charter schools, and through December 31, 2023, educational service districts obtaining employee benefits through a contractual agreement with the authority to participate in benefit plans developed by the public employees' benefits board.

(10)(a) "Employing agency" for the public employees' benefits board program means a division, department, or separate agency of state government, including an institution of higher education; a county, municipality, or other political subdivision; and a tribal government covered by this chapter.

(b) "Employing agency" for the school employees' benefits board program means school districts, educational service districts, and charter schools.

(11) "Faculty" means an academic employee of an institution of higher education whose workload is not defined by work hours but whose appointment, workload, and duties directly serve the institution's academic mission, as determined under the authority of its enabling statutes, its governing body, and any applicable collective bargaining agreement.

(12) "Flexible benefit plan" means a benefit plan that allows employees and school employees to choose the level of health care coverage provided and the amount of employee or school employee contributions from among a range of choices offered by the authority.

(13) "Insuring entity" means an insurer as defined in chapter 48.01 RCW, a health care service contractor as defined in chapter 48.44 RCW, or a health maintenance organization as defined in chapter 48.46 RCW.

(14) "Medical flexible spending arrangement" means a benefit plan whereby state and school employees may reduce their salary before taxes to pay for medical expenses not reimbursed by insurance as provided in the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

(15) "Participant" means an individual who fulfills the eligibility and enrollment requirements under the salary reduction plan.

(16) "Plan year" means the time period established by the authority.

(17) "Premium payment plan" means a benefit plan whereby public employees may pay their share of group health plan premiums with pretax dollars as provided in the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

(18) "Public employee" has the same meaning as employee and school employee.

(19) "Retired or disabled school employee" means:

(a) Persons who separated from employment with a school district or educational service district and are receiving a retirement allowance under chapter 41.32 or 41.40 RCW as of September 30, 1993;

(b) Persons who separate from employment with a school district, educational service district, or charter school on or after October 1, 1993, and immediately upon separation receive a retirement allowance under chapter 41.32, 41.35, or 41.40 RCW;

(c) Persons who separate from employment with a school district, educational service district, or charter school due to a total and permanent disability, and are eligible to receive a deferred retirement allowance under chapter 41.32, 41.35, or 41.40 RCW.

(20) "Salary" means a state or school employee's monthly salary or wages.

(21) "Salary reduction plan" means a benefit plan whereby public employees may agree to a reduction of salary on a pretax basis to participate in the dependent care assistance program, medical flexible spending arrangement, or premium payment plan offered pursuant to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

(22) "School employees' benefits board organization" means a public school district or educational service district or charter school established under chapter 28A.710 RCW that is required to participate in benefit plans provided by the school employees' benefits board.

(23) "School year" means school year as defined in RCW 28A.150.203(11).

(24) "Seasonal employee" means a state employee hired to work during a recurring, annual season with a duration of three months or more, and anticipated to return each season to perform similar work.

(25) "Separated employees" means persons who separate from employment with an employer as defined in:

(a)(i) RCW 41.32.010(17) on or after July 1, 1996; or

(((~~(b)~~))) (ii) RCW 41.35.010 on or after September 1, 2000; or

(((~~(c)~~))) (iii) RCW 41.40.010 on or after March 1, 2002;

and who are at least age fifty-five and have at least ten years of service under the teachers' retirement system plan 3 as defined in RCW 41.32.010(33), the Washington school employees' retirement system plan 3 as defined in RCW 41.35.010, or the public employees' retirement system plan 3 as defined in RCW 41.40.010; or

(b) For the purposes of RCW 41.05.080:

(i) RCW 41.32.010 on or after the effective date of this section; or

(ii) RCW 41.35.010 on or after the effective date of this section; or

(iii) RCW 41.40.010 on or after the effective date of this section; and who are at least age 55 and have at least 20 years of service under the teachers' retirement system plan 2 as defined in RCW 41.32.010, the Washington school employees' retirement system plan 2 as defined in RCW 41.35.010, or the public employees' retirement system plan 2 as defined in RCW 41.40.010.

(26) "State purchased health care" or "health care" means medical and health care, pharmaceuticals, and medical equipment purchased with state and federal funds by the department of social and health services, the department of

health, the basic health plan, the state health care authority, the department of labor and industries, the department of corrections, the department of veterans affairs, and local school districts.

(27) "Tribal government" means an Indian tribal government as defined in section 3(32) of the employee retirement income security act of 1974, as amended, or an agency or instrumentality of the tribal government, that has government offices principally located in this state.

NEW SECTION. **Sec. 2.** This act takes effect January 1, 2024.

Passed by the House February 6, 2023.
Passed by the Senate April 12, 2023.
Approved by the Governor April 25, 2023.
Filed in Office of Secretary of State April 26, 2023.

CHAPTER 165

[Second Substitute House Bill 1009]

MILITARY SPOUSES—PROFESSIONAL LICENSING AND EMPLOYMENT

AN ACT Relating to military spouse employment; amending RCW 18.340.020 and 73.04.150; adding new sections to chapter 18.340 RCW; adding a new section to chapter 28A.410 RCW; adding a new section to chapter 43.60A RCW; adding a new section to chapter 38.42 RCW; creating new sections; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** This act may be known and cited as the military spouse employment act.

NEW SECTION. **Sec. 2.** The legislature finds that the lives of military spouses are dominated by frequent deployments and relocations, and one-third of military families move each year. Many military families depend on two incomes, and military spouses tend to be better educated than the civilian population, with approximately 34 to 50 percent working in fields that require a professional license. The length of time to credential after a move is a significant employment barrier, with one study finding 20 percent of military spouses waited at least 10 months for a license after moving to a new state. This wait contributes to higher rates of unemployment or underemployment for military spouses when compared to their civilian counterparts. Given the fiscal and economic constraints of military families and the readiness considerations of the department of defense, the legislature intends to help alleviate the career turmoil military spouses face while serving in our state.

NEW SECTION. **Sec. 3.** A new section is added to chapter 18.340 RCW to read as follows:

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

(1) "Authority" means any agency, board, commission, or other authority for issuance of a license, certificate, registration, or permit under this title. "Authority" does not include the department of labor and industries, or the department of financial institutions with respect to escrow agent licensure under chapter 18.44 RCW.

(2) "License" means a license, certificate, registration, or permit to perform professional services.

Sec. 4. RCW 18.340.020 and 2011 2nd sp.s. c 5 s 2 are each amended to read as follows:

(1) ((~~For the purposes of this section, "authority" means any board, commission, or other authority for issuance of a license, certificate, registration, or permit under this title.~~

~~(2) To the extent resources are available:~~))

(a) Each authority shall establish procedures to expedite the issuance of a license((~~, certificate, registration, or permit to perform professional services~~)) regulated by each such authority to a person:

(i) Who is ((~~certified or~~)) licensed, certified, or registered, or has a permit in another state to perform professional services in that state; and

(ii) Whose spouse is the subject of a military transfer to Washington((~~; and~~

~~(iii) Who left employment in the other state to accompany the person's spouse to Washington~~)).

(b) The procedure must include a process for issuing the person a license((~~, certificate, registration, or permit, if, in the opinion of the authority, the requirements for licensure, certification, registration, or obtaining a permit of such other state are substantially equivalent to that required in Washington~~)) within 30 days of receiving a completed application. A completed application means that the authority has received all supporting materials, related application fees, fingerprints, and required documentation associated with a criminal background check.

(((~~(c)~~))) (2) Each authority in this title shall develop a method and adopt rules to authorize a person who meets the criteria in (((~~(a)(i) through (iii) of~~)) this ((~~subsection~~)) section to perform services regulated by the authority in Washington by issuing the person a temporary license((~~, certificate, registration, or permit~~)) within 30 days of receiving a completed application. A completed application means that the authority has received a copy of the certificate issued by the other state for a certificated education professional, related application fees, fingerprints, and required documentation associated with a criminal background check. The license may be issued for a limited period of time of no less than 180 days to allow the person to perform services regulated by the authority while completing any specific additional requirements in Washington that are not related to training or practice standards of the profession that were not required in the other state in which the person is licensed, certified, or registered, or has a permit.

(3) Nothing in this section requires the authority to issue a ((~~temporary~~)) license((~~, certificate, registration, or permit~~)) if the standards of the other state are substantially unequal to Washington standards.

(((~~(d)~~))) (4) An applicant must state in the application that ((~~he or she~~)) the applicant:

(((~~(i)~~))) (a) Has requested verification from the other state or states that the person is currently licensed, certified, registered, or has a permit; and

(((~~(ii)~~))) (b) Is not subject to any pending investigation, charges, or disciplinary action by the regulatory body of the other state or states.

(((~~(e)~~))) (5) If the authority finds reasonable cause to believe that an applicant falsely affirmed or stated either of the requirements under (((~~(d)(i) or (ii) of this~~)) subsection (4)(a) or (b) of this section, the authority may summarily suspend the

license((~~, certificate, registration, or permit~~)) pending an investigation or further action to discipline or revoke the license((~~, certificate, registration, or permit~~)).

NEW SECTION. **Sec. 5.** A new section is added to chapter 18.340 RCW to read as follows:

(1) Each authority must identify a contact or coordinator within the authority to assist military spouse applicants and licensees.

(2) Each authority must provide training to each board or commission member on the culture of military spouses, the military spouse experience, and issues related to military spouse career paths. Board or commission members appointed on or before October 1, 2023, must complete the training by January 1, 2024. Board or commission members appointed after October 1, 2023, must complete the training within 90 days after appointment. The department of veterans affairs shall create an internet-based training that may be used by each authority to satisfy this requirement.

(3) Each authority is encouraged to:

(a) Appoint a military spouse to serve on its licensing board or commission;

(b) Conduct a review of the authority's licensing application process for military spouses and identify barriers to military spouse employment; and

(c) Review licensing fees and related expenses and identify possible ways to reduce costs for military spouses.

NEW SECTION. **Sec. 6.** A new section is added to chapter 18.340 RCW to read as follows:

(1) The employment security department, the department of health, the department of licensing, and the department of veterans affairs shall each maintain a military spouse assistance web page containing, at a minimum:

(a) Each authority's rules and procedures, including any required fees, related to the licensing of military spouses;

(b) Contact information for each authority's military spouse contact or coordinator; and

(c) Links to the military spouse assistance web pages of other agencies.

(2) A direct link to the agency's military spouse assistance web page must be displayed on the agency's home page.

NEW SECTION. **Sec. 7.** A new section is added to chapter 28A.410 RCW to read as follows:

The agency responsible for educator certification shall, as set forth in chapter 18.340 RCW:

(1) Adopt rules for expedited professional certification for military spouses;

(2) Identify a contact or coordinator to assist military spouse applicants and licensees;

(3) Provide training to each board member on the culture of military spouses, the military spouse experience, and issues related to military spouse career paths; and

(4) Maintain a military spouse assistance web page.

NEW SECTION. **Sec. 8.** A new section is added to chapter 43.60A RCW to read as follows:

(1) The department, the employment security department, and the department of commerce shall consult local chambers of commerce, associate development organizations, and businesses to initiate a demonstration campaign

to increase military spouse employment. This campaign may include partnerships with chambers of commerce that result in business owners sharing, with the local chamber of commerce, information on the number of military spouses employed and the local chambers of commerce providing this information to the department.

(2) Participants in the campaign are encouraged to work with the Washington state military transition council and county veterans' advisory boards under RCW 73.08.035.

(3) Funding for the campaign shall be established from existing resources.

(4) For the purposes of this section, "military spouse" means any person married or previously married to a military service member, irrespective of the length of the marriage, during the military service member's service in any branch of the United States armed forces as an active duty service member, reservist, or national guard member.

NEW SECTION. **Sec. 9.** A new section is added to chapter 38.42 RCW to read as follows:

(1) The spouse of a service member may terminate an employment contract without penalty at any time after the service member receives military service orders for a permanent change of station if:

(a) The spouse provides written notice, including email, to the employer of the termination under this section; and

(b) The spouse provides written proof to the employer of the official orders showing that the service member has received military orders for a permanent change of station.

(2) Termination of an employment contract under this section is effective on the day notice is given under subsection (1) of this section or on a date mutually agreed to by the parties to the employment contract.

(3) An employer may not impose any penalty for termination of an employment contract under this section.

(4) For purposes of this section:

(a) "Employment contract" means a contract that establishes the terms of employment or other professional relationship with the spouse of a service member. "Employment contract" does not include an independent contractor agreement.

(b) "Penalty" means any fee or cost or liability for breach of contract or any other adverse consequence imposed by the employer. "Penalty" does not include any requirements established by state or federal law.

(5) This section applies prospectively only and not retroactively. It applies only to employment contracts entered into on or after the effective date of this section.

(6) Nothing in this section shall be construed as altering the terms, conditions, or practices contained in any collective bargaining agreement in effect on the effective date of this section until the expiration date of such agreement.

Sec. 10. RCW 73.04.150 and 2017 c 184 s 1 are each amended to read as follows:

(1) There is hereby created a joint committee on veterans' and military affairs. The committee shall consist of: (a) Eight members of the senate

appointed by the president of the senate, four of whom shall be members of the majority party and four of whom shall be members of the minority party; and (b) eight members of the house of representatives appointed by the speaker, four of whom shall be members of the majority party and four of whom shall be members of the minority party. Members of the committee shall be appointed before the close of the 2005 legislative session, and before the close of each regular session during an odd-numbered year thereafter.

(2) Each member's term of office shall run from the close of the session in which he or she was appointed until the close of the next regular session held in an odd-numbered year. If a successor is not appointed during a session, the member's term shall continue until the member is reappointed or a successor is appointed. The term of office for a committee member who does not continue as a member of the senate or house of representatives shall cease upon the convening of the next session of the legislature during an odd-numbered year after the member's appointment, or upon the member's resignation, whichever is earlier. Vacancies on the committee shall be filled by appointment in the same manner as described in subsection (1) of this section. All such vacancies shall be filled from the same political party and from the same house as the member whose seat was vacated.

(3) The committee shall establish an executive committee of four members, two of whom are members of the senate and two of whom are members of the house of representatives. The executive committee shall appoint one cochair from the two executive committee members who are senators and one cochair from the two executive committee members who are representatives. The two cochairs shall be from different political parties and their terms of office shall run from the close of the session in which they are appointed until the close of the next regular session in an odd-numbered year. The executive committee is responsible for performing all general administrative and personnel duties assigned to it in the rules and procedures adopted by the joint committee, as well as other duties delegated to it by the joint committee.

(4) The joint committee on veterans' and military affairs has the following powers and duties:

(a) To study veterans' issues, active military forces issues, and national guard and reserve component issues, and make recommendations to the legislature; and

(b) To study structure and administration of the department of veterans affairs and the military department, and make recommendations to the legislature.

(5) The joint committee shall adopt rules and procedures for its orderly operation. The joint committee may create subcommittees to perform duties under this section.

(6) The regulating authorities for the department of licensing ((~~and~~)), the department of health, and the professional educator standards board shall file reports to the legislature ((~~biennially and the Washington state military transition council~~)) annually beginning January 1, ((~~2018~~)) 2024, and appear annually before the joint committee on veterans' and military affairs, to provide updates on progress in their efforts to implement the requirements of chapter 18.340 RCW, chapter 32, Laws of 2011, ((~~and~~)) chapter 351, Laws of 2011((~~. By January 1, 2018, the department of labor and industries and the professional~~

~~educator standards board must each submit a report to the legislature, including an assessment on how its licensing, certification, and apprenticeship programs apply training and experience acquired by military members and their spouses outside of Washington, and recommendations about whether such programs should be included in the reporting schedule within this subsection~~)), and section 6 of this act.

NEW SECTION. **Sec. 11.** Section 4 of this act takes effect October 1, 2023.

Passed by the House April 13, 2023.
Passed by the Senate April 10, 2023.
Approved by the Governor April 25, 2023.
Filed in Office of Secretary of State April 26, 2023.

CHAPTER 166

[Substitute House Bill 1068]

WORKERS' COMPENSATION—INDEPENDENT MEDICAL EXAMINATIONS—WORKER RIGHTS

AN ACT Relating to injured workers' rights during compelled medical examinations; and amending RCW 51.36.070.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 51.36.070 and 2020 c 213 s 3 are each amended to read as follows:

(1)(a) Whenever the department or the self-insurer deems it necessary in order to (i) make a decision regarding claim allowance or reopening, (ii) resolve a new medical issue, an appeal, or case progress, or (iii) evaluate the worker's permanent disability or work restriction, a worker shall submit to examination by a physician or physicians selected by the department, with the rendition of a report to the person ordering the examination, the attending physician, and the injured worker.

(b) The examination must be at a place reasonably convenient to the injured worker, or alternatively utilize telemedicine if the department determines telemedicine is appropriate for the examination. For purposes of this subsection, "reasonably convenient" means at a place where residents in the injured worker's community would normally travel to seek medical care for the same specialty as the examiner. The department must address in rule how to accommodate the injured worker if no approved medical examiner in the specialty needed is available in that community.

(2) The department or self-insurer shall provide the physician performing an examination with all relevant medical records from the worker's claim file. The director, in his or her discretion, may charge the cost of such examination or examinations to the self-insurer or to the medical aid fund as the case may be. The cost of said examination shall include payment to the worker of reasonable expenses connected therewith.

(3) For purposes of this section, "examination" means a physical or mental examination by a medical care provider licensed to practice medicine, osteopathy, podiatry, chiropractic, dentistry, or psychiatry at the request of the

department or self-insured employer ((~~or by order of the board of industrial insurance appeals~~)).

(4)(a) The worker has the right to record the audio, video, or both, of all examinations ordered under this section, RCW 51.32.110, or by the board of industrial insurance appeals.

(b) The worker or the worker's representative must provide notice to the entity scheduling the examination that the examination will be recorded no less than seven calendar days before the date of the examination. The department must adopt rules to define the notification process.

(c) The worker is responsible for paying the costs of recording.

(d) Upon request, the worker must provide one copy of the recording to the department or self-insured employer within 14 days of receiving the request, but in no case prior to the issuance of a written report of the examination.

(e) The worker must take reasonable steps to ensure the recording equipment does not interfere with the examination. The worker may not hold the recording equipment while the examination is occurring.

(f) The worker may not materially alter the recording. Benefits received as a result of any material alteration of the recording by the worker or done on the worker's behalf may be subject to repayment pursuant to RCW 51.32.240.

(g) The worker may not post the recording to social media.

(h) Recordings made under this subsection are deemed confidential pursuant to RCW 51.28.070.

(i) The worker has the right to have one person, who is at least the age of majority and who is of the worker's choosing, to be present to observe all examinations ordered under this section, RCW 51.32.110, or by the board of industrial insurance appeals. The observer must be unobtrusive and not interfere with the examination. The observer may not be the worker's legal representative, an employee of the legal representative, the worker's attending provider, or an employee of the worker's attending provider.

(5) This section applies prospectively to all claims regardless of the date of injury.

Passed by the House April 13, 2023.
Passed by the Senate April 7, 2023.
Approved by the Governor April 25, 2023.
Filed in Office of Secretary of State April 26, 2023.

CHAPTER 167

[Substitute House Bill 1084]

FREIGHT MOBILITY—PRIORITIZATION

AN ACT Relating to freight mobility prioritization; amending RCW 47.06A.010, 47.06A.001, 47.06A.020, 47.06A.030, 47.06.045, 47.06.070, 46.68.300, 46.68.310, and 47.06A.080; adding a new section to chapter 53.20 RCW; adding a new section to chapter 47.04 RCW; creating a new section; recodifying RCW 47.06A.080 and 47.06A.090; and repealing RCW 47.06A.045, 47.06A.050, and 47.06A.060.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 47.06A.010 and 1998 c 175 s 2 are each amended to read as follows:

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

(1) "Board" means the freight mobility strategic investment board created in RCW 47.06A.030.

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

(3) "Freight mobility" means the safe, reliable, and efficient movement of goods within and through the state to ensure the state's economic vitality.

(4) "Indian tribe" has the same meaning as provided in RCW 43.376.010.

(5) "Local governments" means cities, towns, counties, special purpose districts, port districts, and any other municipal corporations or quasi-municipal corporations in the state excluding school districts.

(((~~(5)~~))) (6) "Overburdened community" has the same meaning as provided in RCW 70A.02.010.

(7) "Public entity" means a state agency, city, town, county, port district, or municipal or regional planning organization.

(((~~(6)~~))) (8) "Strategic freight corridor" means a transportation corridor of great economic importance within an integrated freight system that:

(a) Serves international and domestic interstate and intrastate trade;

(b) Enhances the state's competitive position through regional and global gateways;

(c) Carries freight tonnages of at least:

(i) Four million gross tons annually on state highways, city streets, and county roads;

(ii) Five million gross tons annually on railroads; or

(iii) Two and one-half million net tons on waterways; and

(d) Has been designated a strategic corridor by the board under RCW 47.06A.020(((~~(3)~~))) (4). However, new alignments to, realignments of, and new links to strategic corridors that enhance freight movement may qualify, even though no tonnage data exists for facilities to be built in the future.

Sec. 2. RCW 47.06A.001 and 1998 c 175 s 1 are each amended to read as follows:

The legislature finds that:

(1) Washington state is uniquely positioned as a gateway to the global economy. As the most trade-dependent state in the nation, per capita, Washington's economy is highly dependent on an efficient multimodal transportation network in order to remain competitive.

(2) The vitality of the state's economy is placed at risk by growing traffic congestion that impedes the safe and efficient movement of goods. The absence of a comprehensive and coordinated state policy that facilitates freight movements to local, national, and international markets limits trade opportunities.

(3) Freight corridors that serve international and domestic interstate and intrastate trade, and those freight corridors that enhance the state's competitive position through regional and global gateways are strategically important. In many instances, movement of freight on these corridors is diminished by: Barriers that block or delay access to intermodal facilities where freight is transferred from one mode of transport to another; conflicts between rail and road traffic; constraints on rail capacity; highway capacity constraints,

congestion, and condition; waterway system depths that affect capacity; and institutional, regulatory, and operational barriers.

(4) ((~~Rapidly escalating population growth is placing an added burden on streets, roads, and highways that serve as freight corridors. Community benefits from economic activity associated with freight movement often conflict with community concerns over safety, mobility, [and] environmental quality. Efforts to~~)) The negative impacts of freight transportation do not fall equally on all residents of Washington, and historically the negative impacts have been concentrated or felt most acutely within overburdened communities. Overburdened communities and vulnerable populations tend to be disproportionately located next to industrial areas and freight facilities such as ports, rail yards, highways, and truck stops. As such, the incidence of many health conditions, traffic accidents involving nondrivers, and highways dividing communities are among the highest in these communities. Freight mobility improvement efforts must prevent or minimize community impacts in areas of high freight movements ((~~that~~)) and must encourage the active participation of communities in the early stages of proposed public and private infrastructure investments ((~~will facilitate needed freight mobility improvements~~)).

(5) Greenhouse gas emissions from freight transportation contribute to global climate change. In keeping with RCW 70A.45.020, freight mobility efforts must facilitate a transition to zero-emissions technology and proposed public and private infrastructure investments must align with this transition. Projects that invest in zero-emissions vehicle refueling and transportation patterns and zero-emissions freight movement corridors should be included within the investment program.

(6) Ownership of the freight mobility network is fragmented and spread across various public jurisdictions, private companies, and state and national borders. Transportation projects have grown in complexity and size, requiring more resources and longer implementation time frames. Currently, there is no comprehensive and integrated framework for planning the freight mobility needs of public and private stakeholders in the freight transportation system. A coordinated planning process should identify new infrastructure investments that are integrated by public and private planning bodies into a multimodal and multijurisdictional network in all areas of the state, urban and rural, east and west. The state should integrate freight mobility goals with state policy on related issues such as economic development, growth management, and environmental management.

(((~~(6)~~))) (7) State investment in projects that enhance or mitigate freight movements, should pay special attention to solutions that utilize a corridor solution to address freight mobility issues with important transportation and economic impacts beyond any local area. The corridor approach builds partnerships and fosters coordinated planning among jurisdictions and the public and private sectors.

(((~~(7)~~))) (8) It is the policy of the state of Washington that limited public transportation funding and competition between freight and general mobility improvements for the same fund sources require strategic, prioritized freight investments that reduce barriers to freight movement, maximize cost-effectiveness, yield a return on the state's investment, require complementary investments by public and private interests, and solve regional freight mobility

problems. State financial assistance for freight mobility projects must leverage other funds from all potential partners and sources, including federal, county, city, port district, and private capital.

Sec. 3. RCW 47.06A.020 and 2013 c 104 s 1 are each amended to read as follows:

(1) The purpose of the board is to:

(a) Provide strategic guidance to the governor and the legislature regarding the highest priority freight mobility needs in the state;

(b) Identify and recommend a program of high-priority strategic freight mobility investments;

(c) Encourage policies that support a competitive, resilient, sustainable, and equitable freight system; and

(d) Serve as a forum for discussion of state transportation decisions affecting freight mobility.

(2) The board shall:

(a) Adopt rules and procedures necessary to implement the freight mobility strategic investment program;

(b) ((~~Solicit from public entities proposed projects that meet eligibility criteria established in accordance with subsection (4) of this section; and~~

~~(c) Review and evaluate project applications based on criteria established under this section, and prioritize and select projects comprising a portfolio to be funded in part with grants from state funds appropriated for the freight mobility strategic investment program. In determining the appropriate level of state funding for a project, the board shall ensure that state funds are allocated to leverage the greatest amount of partnership funding possible. The board shall ensure that projects included in the portfolio are not more appropriately funded with other federal, state, or local government funding mechanisms or programs. The board shall reject those projects that appear to improve overall general mobility with limited enhancement for freight mobility.~~

~~The board shall provide periodic progress reports on its activities to the office of financial management and the senate and house transportation committees.~~

~~(2)~~)) After seeking input from local governments, transportation planning organizations, other public entities, and Indian tribes recommend a six-year investment program of the highest priority freight mobility projects for the state across freight modes, jurisdictions, and the regions of the state;

(c) Ensure that the program provides statewide inclusion and maximum federal funding options, projects recommended as a part of the six-year investment program that intend to leverage federal funds must be developed consistent with planning requirements for inclusion in the federally recognized state freight plan;

(d) Monitor the implementation of projects included in the six-year investment program on an ongoing basis;

(e) Identify critical emerging freight mobility issues not yet addressed by investments considered for inclusion in the six-year investment program of the highest priority freight mobility investments required in (a) of this subsection; and

(f) Submit an initial full report meeting the requirements of this subsection to the governor and the transportation committees of the legislature by

December 1, 2024. Updated reports may be submitted annually to the transportation committees of the legislature and governor by December 1st of each year; however, a full update must be provided every two years.

(3) The board may:

(a) ((~~Accept from any state or federal agency, loans or grants for the financing of any transportation project and enter into agreements with any such agency concerning the loans or grants;~~

~~(b)~~)) Provide technical assistance to project ((~~applicants~~)) sponsors;

(((~~(c)~~))) (b) Accept any gifts, grants, or loans of funds, property, or financial, or other aid in any form from any other source on any terms and conditions which are not in conflict with this chapter;

(((~~(d)~~))) (c) Adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of this chapter; ((~~and~~

~~(e)~~)) (d) Do all things necessary or convenient to carry out the powers expressly granted or implied under this chapter;

(e) Evaluate and recommend for state sponsorship priority projects eligible for federal grant funding under the nationally significant multimodal freight and highway projects program, also known as the infrastructure for rebuilding America program, established in 23 U.S.C. Sec. 117 and the railroad crossing elimination program established in 49 U.S.C. Sec. 22909; and

(f) For critical emerging freight issues identified under subsection (2)(e) of this section, proactively work with potential project sponsors, impacted communities, and other interested parties to facilitate project development to address these critical issues.

(((~~(3)~~))) (4) The board shall ((~~designate~~)):

(a) Designate strategic freight corridors within the state. The board shall update the list of designated strategic corridors not less than every two years, and shall establish a method of collecting and verifying data, including information on city and county-owned roadways((~~.~~

~~(4) The board shall~~)):

(b) Coordinate with the department of transportation throughout the process of its periodic update of the state's freight mobility plan and review and provide feedback on the plan;

(c) For the purposes of developing the six-year program of highest priority freight mobility investments, utilize threshold project eligibility criteria that, at a minimum, includes the following:

(((~~(a)~~))) (i) The project must be on a strategic freight corridor;

(((~~(b) The project must meet one of the following conditions:~~

~~(i) It is primarily aimed at reducing identified barriers to freight movement with only incidental benefits to general or personal mobility; or~~

~~(ii) It is primarily aimed at increasing capacity for the movement of freight with only incidental benefits to general or personal mobility; or~~

~~(iii) It is primarily aimed at mitigating the impact on communities of increasing freight movement, including roadway/railway conflicts; and~~

~~(c) The project must have a total public benefit/total public cost ratio of equal to or greater than one.~~

~~(5) From June 11, 1998, through the biennium ending June 30, 2001, the board shall use the multicriteria analysis and scoring framework for evaluating and ranking eligible freight mobility and freight mitigation projects developed~~

~~by the freight mobility project prioritization committee and contained in the January 16, 1998, report entitled "Project Eligibility, Priority and Selection Process for a Strategic Freight Investment Program." The prioritization process shall measure the degree to which projects address important program objectives and shall generate a project score that reflects a project's priority compared to other projects. The board shall assign scoring points to each criterion that indicate the relative importance of the criterion in the overall determination of project priority. After June 30, 2001, the board may supplement and refine the initial project priority criteria and scoring framework developed by the freight mobility project prioritization committee as expertise and experience is gained in administering the freight mobility program.~~

~~(6) It is the intent of the legislature that each freight mobility project contained in the project portfolio approved by the board utilize the greatest amount of nonstate funding possible. The board shall adopt rules that give preference to projects that contain the greatest levels of financial participation from nonprogram fund sources. The board shall consider twenty percent as the minimum partnership contribution, but shall also ensure that there are provisions allowing exceptions for projects that are located in areas where minimal local funding capacity exists or where the magnitude of the project makes the adopted partnership contribution financially unfeasible.~~

~~(7) The board shall develop~~)) (ii) The project sponsor must demonstrate a plan for:

(A) Sufficient engagement with overburdened communities impacted by the project; and

(B) The evaluation of project alternatives and mitigation measures addressing the impacts on these communities to the greatest extent possible;

(d) Adopt other evaluation criteria for the six-year program of highest priority freight mobility investments to include, but not be limited to, benefits to the state's freight system, how much funding has already been secured for a project, project readiness for construction, and the regional distribution of projects;

(e) For the six-year investment program, solicit from public entities proposed projects that meet threshold criteria established in accordance with this subsection. The procedures for collecting and validating project information must rely on information project sponsors have already developed to the greatest extent possible; and

(f) Develop and recommend policies that address operational improvements that primarily benefit and enhance freight movement((,)) including, but not limited to, policies that reduce congestion in truck lanes at border crossings and weigh stations and provide for access to ports during nonpeak hours.

NEW SECTION. **Sec. 4.** The freight mobility strategic investment board must contract for a study of best practices for preventing or mitigating the impacts of investments in and the operation of freight systems in overburdened communities, with a focus on developing common procedures and practices for use by jurisdictions developing freight projects. The study must also make recommendations to the board regarding methods to evaluate the threshold criteria requiring projects to demonstrate a plan for engagement with overburdened communities and mitigation of project impacts in those communities. The recommended methods should not create duplicative burdens

on project sponsors. The board must work with the department of enterprise services to ensure that a diverse group of potential consultants are notified of the contracting opportunity. By December 1, 2024, the board must submit a report to the governor and transportation committees of the legislature with its findings and recommendations.

Sec. 5. RCW 47.06A.030 and 1999 c 216 s 2 are each amended to read as follows:

(1) The freight mobility strategic investment board is created. The board shall convene by July 1, 1998.

(2) The board is composed of ((~~twelve~~)) 17 members. The following members are appointed by the governor for terms of four years, except that five members initially are appointed for terms of two years: (a) Two members, one of whom is from a city located within or along a strategic freight corridor, appointed from a list of at least four persons nominated by the association of Washington cities or its successor; (b) two members, one of whom is from a county having a strategic freight corridor within its boundaries, appointed from a list of at least four persons nominated by the Washington state association of counties or its successor; (c) two members, one of whom is from a port district located within or along a strategic freight corridor, appointed from a list of at least four persons nominated by the Washington public ports association or its successor; (d) one member representing the office of financial management; (e) one member appointed as a representative of the trucking industry; (f) one member appointed as a representative of the railroads; (g) the secretary of the department of transportation or the secretary's designee; (h) one member representing the steamship industry; ((~~and~~)) (i) one member representing the package delivery industry; (j) one labor member representing the freight sector; (k) one member representing the heavy highway construction industry; (l) one member representing environmental protection interests; (m) one member representing the interests of overburdened communities; and (n) one member of the general public. In appointing the general public member, the governor shall endeavor to appoint a member with special expertise in relevant fields such as public finance, freight transportation, or public works construction. The governor shall appoint the general public member as chair of the board. In making appointments to the board, the governor shall ensure that each geographic region of the state is represented.

(3) Members of the board shall be reimbursed for reasonable and customary travel expenses as provided in RCW 43.03.050 and 43.03.060.

(4) If a vacancy on the board occurs by death, resignation, or otherwise, the governor shall fill the vacant position for the unexpired term. Each vacancy in a position appointed from lists provided by the associations and departments under subsection (2) of this section must be filled from a list of at least four persons nominated by the relevant association or associations.

(5) The appointments made in subsection (2) of this section are not subject to confirmation.

Sec. 6. RCW 47.06.045 and 1998 c 175 s 10 are each amended to read as follows:

The state-interest component of the statewide multimodal transportation plan shall include a freight mobility plan which shall assess the transportation

needs to ensure the safe, reliable, and efficient movement of goods within and through the state and to ensure the state's economic vitality. The department shall coordinate with the freight mobility strategic investment board throughout the process of the department's periodic update of the state's freight mobility plan and provide opportunities for the board to review and provide feedback on the plan.

Sec. 7. RCW 47.06.070 and 1993 c 446 s 7 are each amended to read as follows:

The state-interest component of the statewide multimodal transportation plan shall include a state marine ports and navigation plan, which shall assess the transportation needs of Washington's marine ports, including navigation, and identify transportation system improvements needed to support the international trade and economic development role of Washington's marine ports. The department shall coordinate with the freight mobility strategic investment board throughout the process of the department's periodic update of the state marine ports and navigation plan and provide opportunities for the board to review and provide feedback on the plan.

Sec. 8. RCW 46.68.300 and 2021 c 333 s 711 are each amended to read as follows:

The freight mobility investment account is hereby created in the state treasury. Money in the account may be spent only after appropriation. Expenditures from the account ((~~may~~)) shall be used only for freight mobility projects that have been ((~~approved~~)) recommended by the freight mobility strategic investment board in RCW 47.06A.020 and may include any principal and interest on bonds authorized for the projects or improvements. ((~~During the 2019-2021 and 2021-2023 fiscal biennia, the expenditures from the account may also be used for the administrative expenses of the freight mobility strategic investment board.~~))

Sec. 9. RCW 46.68.310 and 2020 c 219 s 702 are each amended to read as follows:

The freight mobility multimodal account is created in the state treasury. Money in the account may be spent only after appropriation. Expenditures from the account ((~~may~~)) shall be used only for freight mobility projects that have been ((~~approved~~)) recommended by the freight mobility strategic investment board in RCW 47.06A.020 and may include any principal and interest on bonds authorized for the projects or improvements. ((~~However, during the 2019-2021 fiscal biennium, the legislature may direct the state treasurer to make transfers of moneys in the freight mobility multimodal account to the multimodal transportation account.~~))

Sec. 10. RCW 47.06A.080 and 1998 c 175 s 9 are each amended to read as follows:

Any port district may adopt and amend a freight development plan as an amendment to the port's comprehensive scheme of harbor improvements, pursuant to RCW 53.20.020. Port districts in the state shall submit their freight development plans to the relevant regional transportation planning organization or metropolitan planning organization, the Washington state department of transportation, the freight mobility strategic investment board, and affected cities

and counties to better coordinate the development and funding of freight mobility projects.

NEW SECTION. **Sec. 11.** The following acts or parts of acts are each repealed:

(1) RCW 47.06A.045 (Board—Standing committee—Travel reimbursement) and 2013 c 306 s 707;

(2) RCW 47.06A.050 (Allocation of funds) and 2016 c 23 s 1, 2013 c 104 s 2, & 1998 c 175 s 6; and

(3) RCW 47.06A.060 (Grants and loans) and 1998 c 175 s 7.

NEW SECTION. **Sec. 12.** (1) RCW 47.06A.080 is recodified as a section in chapter 53.20 RCW.

(2) RCW 47.06A.090 is recodified as a section in chapter 47.04 RCW.

Passed by the House March 7, 2023.
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Approved by the Governor April 25, 2023.
Filed in Office of Secretary of State April 26, 2023.

CHAPTER 168

[Substitute House Bill 1132]

LIMITED AUTHORITY PEACE OFFICERS AND AGENCIES—OVERSIGHT AND TRAINING

AN ACT Relating to oversight and training requirements for limited authority Washington peace officers and agencies; amending RCW 43.101.095, 43.101.276, and 43.101.278; and reenacting and amending RCW 43.101.010 and 43.101.200.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 43.101.010 and 2021 c 323 s 1 are each reenacted and amended to read as follows:

When used in this chapter:

(1) "Applicant" means an individual who has received a conditional offer of employment with a law enforcement or corrections agency.

(2) "Chief for a day program" means a program in which commissioners and staff partner with local, state, and federal law enforcement agencies, hospitals, and the community to provide a day of special attention to chronically ill children. Each child is selected and sponsored by a law enforcement agency. The event, "chief for a day," occurs on one day, annually or every other year and may occur on the grounds and in the facilities of the commission. The program may include any appropriate honoring of the child as a "chief," such as a certificate swearing them in as a chief, a badge, a uniform, and donated gifts such as games, puzzles, and art supplies.

(3) "Commission" means the Washington state criminal justice training commission.

(4) "Convicted" means at the time a plea of guilty, nolo contendere, or deferred sentence has been accepted, or a verdict of guilty or finding of guilt has been filed, notwithstanding the pendency of any future proceedings, including but not limited to sentencing, posttrial or postfact-finding motions and appeals. "Conviction" includes all instances in which a plea of guilty or nolo contendere is the basis for conviction, all proceedings in which there is a case disposition

agreement, and any equivalent disposition by a court in a jurisdiction other than the state of Washington.

(5) "Correctional personnel" means any employee or volunteer who by state, county, municipal, or combination thereof, statute has the responsibility for the confinement, care, management, training, treatment, education, supervision, or counseling of those individuals whose civil rights have been limited in some way by legal sanction.

(6) "Corrections officer" means any corrections agency employee whose primary job function is to provide for the custody, safety, and security of adult persons in jails and detention facilities in the state. "Corrections officer" does not include individuals employed by state agencies.

(7) "Criminal justice personnel" means any person who serves as a peace officer, reserve officer, or corrections officer.

(8) "Finding" means a determination based on a preponderance of the evidence whether alleged misconduct occurred; did not occur; occurred, but was consistent with law and policy; or could neither be proven or disproven.

(9) "Law enforcement personnel" means any person elected, appointed, or employed as a general authority Washington peace officer as defined in RCW 10.93.020 or as a limited authority Washington peace officer as defined in RCW 10.93.020 who as a normal part of their duties has powers of arrest and carries a firearm. For the purposes of this chapter, "law enforcement personnel" does not include individuals employed by the department of corrections.

(10) "Peace officer" has the same meaning as a general authority Washington peace officer as defined in RCW 10.93.020. Commissioned officers of the Washington state patrol, whether they have been or may be exempted by rule of the commission from the basic training requirement of RCW 43.101.200, are included as peace officers for purposes of this chapter. Fish and wildlife officers with enforcement powers for all criminal laws under RCW 77.15.075 are peace officers for purposes of this chapter. Limited authority Washington peace officers as defined in RCW 10.93.020, who have powers of arrest and carry a firearm as part of their normal duty, are peace officers for purposes of this chapter. For the purposes of this chapter, "peace officer" does not include individuals employed by the department of corrections.

(11) "Reserve officer" means any person who does not serve as a peace officer of this state on a full-time basis, but who, when called by an agency into active service, is fully commissioned on the same basis as full-time officers to enforce the criminal laws of this state and includes:

(a) Specially commissioned Washington peace officers as defined in RCW 10.93.020;

(b) ((~~Limited authority Washington peace officers as defined in RCW 10.93.020;~~

~~(c)~~)) Persons employed as security by public institutions of higher education as defined in RCW 28B.10.016; and

(((~~(d)~~))) (c) Persons employed for the purpose of providing security in the K-12 Washington state public school system as defined in RCW 28A.150.010 and who are authorized to use force in fulfilling their responsibilities.

(12) "Tribal police officer" means any person employed and commissioned by a tribal government to enforce the criminal laws of that government.

Sec. 2. RCW 43.101.200 and 2021 c 334 s 977 and 2021 c 323 s 31 are each reenacted and amended to read as follows:

(1) ((~~All~~)) Except as provided in subsection (2) of this section, all law enforcement personnel, except volunteers, and reserve officers whether paid or unpaid, initially employed on or after January 1, 1978, shall engage in basic law enforcement training which complies with standards adopted by the commission pursuant to RCW 43.101.080. For personnel initially employed before January 1, 1990, such training shall be successfully completed during the first fifteen months of employment of such personnel unless otherwise extended or waived by the commission and shall be requisite to the continuation of such employment. Personnel initially employed on or after January 1, 1990, shall commence basic training during the first six months of employment unless the basic training requirement is otherwise waived or extended by the commission. Successful completion of basic training is requisite to the continuation of employment of such personnel initially employed on or after January 1, 1990.

(2)(a) All law enforcement personnel who are limited authority Washington peace officers and whose employment commences on or after July 1, 2023, shall commence basic training during the first 12 months of employment unless the basic training requirement is otherwise waived or extended by the commission. Successful completion of basic training is requisite to the continuation of employment of such personnel initially employed on or after July 1, 2023.

(b)(i) The commission shall review the training files of all law enforcement personnel who are limited authority Washington peace officers, whose employment commenced prior to July 1, 2023, and who have not successfully completed training that complies with standards adopted by the commission, to determine what, if any, supplemental training is required to appropriately carry out the officers' duties and responsibilities.

(ii) Nothing in this section may be interpreted to require law enforcement personnel who are limited authority Washington peace officers, whose employment commenced prior to July 1, 2023, to complete the basic law enforcement training academy as a condition of continuing employment as a limited authority Washington peace officer.

(iii) Law enforcement personnel who are limited authority Washington peace officers are not required to complete the basic law enforcement academy or an equivalent basic academy upon transferring to a general authority Washington law enforcement agency or limited authority Washington law enforcement agency, as defined in RCW 10.93.020, if they have:

(A) Been employed as a special agent with the Washington state gambling commission, been a natural resource investigator with the department of natural resources, been a liquor enforcement officer with the liquor and cannabis board, been an investigator with the office of the insurance commissioner, or been a park ranger with the Washington state parks and recreation commission, before or after July 1, 2023; and

(B) Received a certificate of successful completion from the basic law enforcement academy or the basic law enforcement equivalency academy and thereafter engaged in regular and commissioned law enforcement employment with an agency listed in (b)(iii)(A) of this subsection without a break or interruption in excess of 24 months; and

(C) Remained current with the in-service training requirements as adopted by the commission by rule.

(3) Except as provided in RCW 43.101.170, the commission shall provide the aforementioned training and shall have the sole authority to do so. The commission shall provide necessary facilities, supplies, materials, and the board and room of noncommuting attendees for seven days per week, except during the 2017-2019, 2019-2021, and 2021-2023 fiscal biennia when the employing, county, city, or state law enforcement agency shall reimburse the commission for twenty-five percent of the cost of training its personnel. Additionally, to the extent funds are provided for this purpose, the commission shall reimburse to participating law enforcement agencies with ten or less full-time commissioned patrol officers the cost of temporary replacement of each officer who is enrolled in basic law enforcement training: PROVIDED, That such reimbursement shall include only the actual cost of temporary replacement not to exceed the total amount of salary and benefits received by the replaced officer during his or her training period:

PROVIDED FURTHER, That limited authority Washington law enforcement agencies as defined in RCW 10.93.020 shall reimburse the commission for the full cost of training their personnel.

Sec. 3. RCW 43.101.095 and 2021 c 323 s 8 are each amended to read as follows:

(1) As a condition of employment, all Washington peace officers and corrections officers are required to obtain certification as a peace officer or corrections officer or exemption therefrom and maintain certification as required by this chapter and the rules of the commission.

(2)(a) Any applicant who has been offered a conditional offer of employment as a peace officer or reserve officer ((~~or~~)), offered a conditional offer of employment as a corrections officer after July 1, 2021, ((~~including any person whose certification has lapsed as a result of a break of more than 24 consecutive months in the officer's service for a reason other than being recalled to military service,~~)) or offered a conditional offer of employment as a limited authority Washington peace officer who if hired would qualify as a peace officer as defined by RCW 43.101.010 after July 1, 2023, must submit to a background investigation to determine the applicant's suitability for employment. This requirement applies to any person whose certification has lapsed as a result of a break of more than 24 consecutive months in the officer's service for a reason other than being recalled into military service. Employing agencies may only make a conditional offer of employment pending completion of the background check and shall verify in writing to the commission that they have complied with all background check requirements prior to making any nonconditional offer of employment.

(b) The background check must include:

(i) A check of criminal history, any national decertification index, commission records, and all disciplinary records by any previous law enforcement or correctional employer, including complaints or investigations of misconduct and the reason for separation from employment. Law enforcement or correctional agencies that previously employed the applicant shall disclose employment information within 30 days of receiving a written request from the employing agency conducting the background investigation, including the

reason for the officer's separation from the agency. Complaints or investigations of misconduct must be disclosed regardless of the result of the investigation or whether the complaint was unfounded;

(ii) Inquiry to the local prosecuting authority in any jurisdiction in which the applicant has served as to whether the applicant is on any potential impeachment disclosure list;

(iii) Inquiry into whether the applicant has any past or present affiliations with extremist organizations, as defined by the commission;

(iv) A review of the applicant's social media accounts;

(v) Verification of immigrant or citizenship status as either a citizen of the United States of America or a lawful permanent resident;

(vi) A psychological examination administered by a psychiatrist licensed in the state of Washington pursuant to chapter 18.71 RCW or a psychologist licensed in the state of Washington pursuant to chapter 18.83 RCW, in compliance with standards established in rules of the commission;

(vii) A polygraph or similar assessment administered by an experienced professional with appropriate training and in compliance with standards established in rules of the commission; and

(viii) Except as otherwise provided in this section, any test or assessment to be administered as part of the background investigation shall be administered in compliance with standards established in rules of the commission.

(c) The commission may establish standards for the background check requirements in this section and any other preemployment background check requirement that may be imposed by an employing agency or the commission.

(d) The employing law enforcement agency may require that each person who is required to take a psychological examination and a polygraph or similar test pay a portion of the testing fee based on the actual cost of the test or $400, whichever is less. Employing agencies may establish a payment plan if they determine that the person does not readily have the means to pay the testing fee.

(3)(a) The commission shall allow a peace officer or corrections officer to retain status as a certified peace officer or corrections officer as long as the officer: (((~~(a)~~))) (i) Timely meets the basic training requirements, or is exempted therefrom, in whole or in part, under RCW 43.101.200 or under rule of the commission; (((~~(b)~~))) (ii) timely meets or is exempted from any other requirements under this chapter as administered under the rules adopted by the commission; (((~~(c)~~))) (iii) is not denied certification by the commission under this chapter; and (((~~(d)~~))) (iv) has not had certification suspended or revoked by the commission.

(b) The commission shall certify peace officers who are limited authority Washington peace officers employed on or before July 1, 2023. Thereafter, the commission may revoke certification pursuant to this chapter.

(4) As a condition of certification, a peace officer or corrections officer must, on a form devised or adopted by the commission, authorize the release to the employing agency and commission of the officer's personnel files, including disciplinary, termination, civil or criminal investigation, or other records or information that are directly related to a certification matter or decertification matter before the commission. The peace officer or corrections officer must also consent to and facilitate a review of the officer's social media accounts, however, consistent with RCW 49.44.200, the officer is not required to provide login

information. The release of information may not be delayed, limited, or precluded by any agreement or contract between the officer, or the officer's union, and the entity responsible for the records or information.

(5) The employing agency and commission are authorized to receive criminal history record information that includes nonconviction data for any purpose associated with employment or certification under this chapter. Dissemination or use of nonconviction data for purposes other than that authorized in this section is prohibited.

(6) For a national criminal history records check, the commission shall require fingerprints be submitted and searched through the Washington state patrol identification and criminal history section. The Washington state patrol shall forward the fingerprints to the federal bureau of investigation.

(7) Prior to certification, the employing agency shall certify to the commission that the agency has completed the background check, no information has been found that would disqualify the applicant from certification, and the applicant is suitable for employment as a peace officer or corrections officer.

Sec. 4. RCW 43.101.276 and 2017 c 290 s 5 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the commission shall develop training on a victim-centered, trauma-informed approach to interacting with victims and responding to sexual assault calls. The curriculum must: Be designed for commissioned patrol officers not regularly assigned to investigate sexual assault cases; be designed for deployment and use within individual law enforcement agencies; include features allowing for it to be used in different environments, which may include multimedia or video components; allow for law enforcement agencies to host it in small segments at different times over several days or weeks, including roll calls. The training must include components on available resources for victims including, but not limited to, material on and references to community-based victim advocates.

(2) In developing the training, the commission shall seek advice from the Washington association of sheriffs and police chiefs, the Washington coalition of sexual assault programs, and experts on sexual assault and the neurobiology of trauma.

(3) Beginning in 2018, all law enforcement agencies shall annually host the training for commissioned peace officers. All law enforcement agencies shall, to the extent feasible, consult with and feature local community-based victim advocates during the training.

(4) With the exception of the state parks and recreation commission, the training requirements under this section do not apply to limited authority Washington law enforcement agencies as defined in RCW 10.93.020 whose authority does not include the investigation of sexual assaults.

Sec. 5. RCW 43.101.278 and 2021 c 118 s 3 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the commission shall conduct an annual case review program. The program must review case files from law enforcement agencies and prosecuting

attorneys selected by the commission in order to identify changes to training and investigatory practices necessary to optimize outcomes in sexual assault investigations and prosecutions involving adult victims. The program must include:

(a) An evaluation of whether current training and practices foster a trauma-informed, victim-centered approach to victim interviews and that identifies best practices and current gaps in training and assesses the integration of the community resiliency model;

(b) A comparison of cases involving investigators and interviewers who have participated in training to cases involving investigators and interviewers who have not participated in training;

(c) Randomly selected cases for a systematic review to assess whether current practices conform to national best practices for a multidisciplinary approach to investigating sexual assault cases and interacting with survivors; and

(d) An analysis of the impact that race and ethnicity have on sexual assault case outcomes.

(2) The case review program may review and access files, including all reports and recordings, pertaining to closed cases involving allegations of adult sexual assault only. Any law enforcement agency or prosecuting attorney selected for the program by the commission shall make requested case files and other documents available to the commission, provided that the case files are not linked to ongoing, open investigations and that redactions may be made where appropriate and necessary. Agencies and prosecuting attorneys shall include available information on the race and ethnicity of all sexual assault victims in the relevant case files provided to the commission. Case files and other documents must be made available to the commission according to appropriate deadlines established by the commission in consultation with the agency or prosecuting attorney.

(3) If a law enforcement agency has not participated in the training under RCW 43.101.272 by July 1, 2022, the commission may prioritize the agency for selection to participate in the program under this section.

(4) In designing and conducting the program, the commission shall consult and collaborate with experts in trauma-informed and victim-centered training, experts in sexual assault investigations and prosecutions, victim advocates, and other stakeholders identified by the commission. The commission may form a multidisciplinary working group for the purpose of carrying out the requirements of this section.

(5) The program participation requirements under this section do not apply to limited authority Washington law enforcement agencies as defined in RCW 10.93.020 whose authority does not include the investigation of sexual assaults.

(6) The commission shall submit a report with a summary of its work to the governor and the appropriate committees of the legislature by December 1st of each year.

Passed by the House March 1, 2023.
Passed by the Senate April 12, 2023.
Approved by the Governor April 25, 2023.
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CHAPTER 169

[Engrossed Second Substitute House Bill 1170]

INTEGRATED CLIMATE CHANGE RESPONSE STRATEGY—UPDATES

AN ACT Relating to improving climate resilience through updates to the state's integrated climate response strategy; amending RCW 70A.05.010, 70A.05.020, 70A.05.030, and 70A.05.040; adding new sections to chapter 70A.05 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature finds that Washington is already experiencing negative community and environmental impacts due to climate change with disproportionate impacts to certain communities and populations and further finds that actions to increase climate resilience, as defined in RCW 70A.65.010, can help prevent and reduce impacts to communities and ecosystems.

(2) The legislature further finds that greater cross-agency coordination on resilience, including an updated statewide climate resilience strategy, will help the state: Avoid high costs in the future; address and reduce the highest risks and greatest vulnerabilities; create more efficiencies; better leverage funding; foster more equitable outcomes; and provide for greater accountability.

(3) The legislature further finds that RCW 70A.65.050 requires an updated statewide strategy for addressing climate risks and improving resilience of communities and ecosystems. Therefore, the legislature intends to direct the department of ecology to update and modernize the *2012 Integrated Climate Response Plan* with the assistance of other state agencies.

(4) The legislature intends for the department of natural resources to continue pursuing climate resilience actions on the public lands they manage and to collaborate with other state agencies in statewide climate resilience efforts.

Sec. 2. RCW 70A.05.010 and 2009 c 519 s 10 are each amended to read as follows:

(1) The departments of ecology, agriculture, ((~~community, trade, and economic development~~)) commerce, health, fish and wildlife, natural resources, and transportation, the state conservation commission, the Puget Sound partnership, and the emergency management division shall develop an integrated climate change response strategy to better enable the state ((~~and local agencies, public and private businesses, nongovernmental organizations, and individuals~~)) to prepare for, address, and adapt to the impacts of climate change. The integrated climate change response strategy should be developed((~~, where feasible and consistent with the direction of the strategy,~~)) in collaboration with local government agencies and tribal governments with climate change preparation and adaptation plans to the extent feasible.

(2) The department of ecology shall serve as a central ((~~clearinghouse for relevant scientific and technical information about the impacts of climate change on Washington's ecology, economy, and society, as well as serve as a central~~)) convener for the development of vital programs and necessary policies to help the state adapt to a rapidly changing climate.

(3) The department of ecology shall consult and collaborate with, at a minimum, the departments of fish and wildlife, agriculture, ((~~community, trade, and economic development~~)) commerce, health, natural resources, and transportation, the state conservation commission, the Puget Sound partnership,

and the emergency management division in developing and implementing an integrated climate change response strategy and plans of action to prepare for and adapt to climate change impacts. Other state agencies may choose to participate in the process.

(4) The department of ecology will engage other relevant state agencies to ensure that other climate resilience actions such as those related to worker safety and community response are incorporated in the updated strategy.

(5) In updating the integrated climate response strategy, the department of ecology shall collaborate and engage with local governments, tribal governments, nongovernmental organizations, public and private businesses, and overburdened communities as defined in RCW 70A.02.010. In developing the engagement plan for development of the strategy, the department of ecology shall announce the opportunity to participate and include, to the extent possible, organizations that express interest in participating. The department of ecology shall also use guidance from the office of equity, the environmental justice council, the community engagement plan adopted under RCW 70A.02.050, and tribal consultation framework adopted under RCW 70A.02.100 to direct agency engagement with historically or currently marginalized groups, overburdened communities, vulnerable populations, and tribal governments.

(6)(a) The department of ecology shall work with the University of Washington climate impacts group to ensure the state has access to relevant scientific and technical information about the impacts of climate change on Washington's ecology, economy, public health, and society, including a central location for accessing this information and use of any existing climate impact tools.

(b) The University of Washington climate impacts group will explore opportunities to partner with other data providers and leverage existing tools that can help further the understanding of climate impacts, such as the department of health's Washington tracking network.

(c) The University of Washington climate impacts group must examine existing best practices and new methods that could be used to measure and evaluate climate change resilience for the purpose of better understanding and tracking how investments made in climate change resilience translate into outcomes. The results of this examination must be provided to the legislature by June 1, 2024.

Sec. 3. RCW 70A.05.020 and 2009 c 519 s 11 are each amended to read as follows:

(1) The integrated climate change response strategy should address the impact of and adaptation to climate change, as well as the regional capacity to undertake actions, existing ecosystem and resource management concerns, and health and economic risks. ((~~In addition, the departments of ecology, agriculture, community, trade, and economic development, fish and wildlife, natural resources, and transportation should include~~)) Agencies should consider a range of scenarios and time scales for the purposes of planning in order to assess ((~~project vulnerability and, to the extent feasible,~~)) vulnerability of state assets and services and inform agency actions to reduce expected risks and increase resiliency to the impacts of climate change.

(2)(a) By ((~~December 1, 2011~~)) September 30, 2024, the department of ecology shall compile an ((~~initial~~)) updated climate change response strategy,

including information and data from the departments of fish and wildlife, agriculture, ((~~community, trade, and economic development~~)) commerce, health, natural resources, and transportation, the state conservation commission, the Puget Sound partnership, and the emergency management division that: ((~~Summarizes the best known science on climate change impacts to Washington; assesses Washington's vulnerability to the identified climate change impacts; prioritizes~~)) Prioritizes solutions that can be implemented within and across state agencies; and identifies recommended funding ((~~mechanisms~~)) and technical and other essential resources for implementing solutions.

(b) The ((~~initial~~)) strategy must include:

(i) ((~~Efforts to identify priority planning areas for action, based on vulnerability and risk assessments;~~

~~(ii) Barriers challenging state and local governments to take action, such as laws, policies, regulations, rules, and procedures that require revision to adequately address adaptation to climate change;~~

~~(iii) Opportunities to integrate climate science and projected impacts into planning and decision making; and~~

~~(iv) Methods to increase public awareness of climate change, its projected impacts on the community, and to build support for meaningful adaptation policies and strategies~~)) A summary of each agency's current climate resilience priorities, plans, and actions;

(ii) Strategies and actions to address the highest climate vulnerabilities and risks to Washington's communities and ecosystems;

(iii) A lead agency or group of agencies assigned to implement actions; and

(iv) Key gaps to advancing climate resilience actions, including in state laws, policies, regulations, rules, procedures, and agency technical capacity.

(c) The strategy must be guided by the following principles:

(i) Prioritize actions that both reduce greenhouse gas emissions and build climate preparedness;

(ii) Protect the state's most overburdened communities and vulnerable populations and provide more equitable outcomes;

(iii) Prioritize actions that deploy natural solutions, restore habitat, or reduce stressors that exacerbate climate impacts. Specifically, prioritized actions must include those related to drought resilience, flood risk mitigation, forest health, urban heat islands and the impacts of the built environment on the natural environment, Puget Sound health, and mitigating expected impacts on outdoor recreation opportunities;

(iv) Prioritize actions that promote and protect human health;

(v) Consider flexible and adaptive approaches for preparing for uncertain climate impacts, where relevant; and

(vi) Address the risks in each geographic region of the state with appropriate scope, scale, and urgency.

(3) By September 30, 2024, the department of ecology, in coordination with partner agencies, shall provide recommendations to the governor's office and relevant committees of the legislature, consistent with RCW 70A.65.050, on a durable structure for coordinating and implementing the state's climate resilience strategy, including a process for prioritizing and coordinating funding for climate resilience actions across agencies.

(4) The department of ecology shall update the climate response strategy every four years and provide interim biennial work plans to the governor's office that report on implementation progress and summarize agency needs and priorities for biennial budget planning processes starting by September 30, 2025.

(5) Agencies responsible for implementing actions in the updated strategy shall provide information needed for reporting to the department of ecology by August 15th of odd-numbered years starting in 2025. Agencies may identify and include any resources needed to carry out duties under RCW 70A.05.040.

Sec. 4. RCW 70A.05.030 and 2009 c 519 s 12 are each amended to read as follows:

The department((~~s~~)) of ecology((~~, agriculture, community, trade, and economic development, fish and wildlife, natural resources, and transportation~~)) and partner agencies may consult with qualified nonpartisan experts from the scientific community including, but not limited to, the University of Washington's climate impacts group, as needed to assist with ((~~developing an~~)) updating the integrated climate change response strategy. The qualified nonpartisan experts from the scientific community may assist the department of ecology on the following components:

(1) Identifying ((~~the timing and extent of impacts from climate change;~~

~~(2) Assessing the effects of climate variability and change in the context of multiple interacting stressors or impacts;~~

~~(3) Developing forecasting models;~~

~~(4) Determining the resilience of the environment, natural systems, communities, and organizations to deal with potential or actual impacts of climate change and the vulnerability to which a natural or social system is susceptible to sustaining damage from climate change impacts; and~~

~~(5)~~)) best practices and processes for prioritizing resilience actions and assessing the effectiveness of potential actions;

(2) Developing a process for identifying metrics and measuring progress and success towards statewide resilience goals;

(3) Analyzing opportunities and gaps in current agency resilience efforts; and

(4) Identifying other issues, as determined by the department of ecology, necessary to develop policies and actions for the integrated climate change response strategy.

Sec. 5. RCW 70A.05.040 and 2009 c 519 s 13 are each amended to read as follows:

State agencies shall ((~~strive to incorporate adaptation plans of action~~)) consider current and future climate change impacts to the extent allowed under existing statutory authority and incorporate climate resilience and adaptation actions as priority activities when planning ((~~or~~)), designing, revising, or implementing relevant agency policies and programs. Agencies shall consider: The integrated climate change response strategy when designing, planning, and funding infrastructure projects; and incorporating natural resource adaptation actions and alternative energy sources when designing and planning infrastructure projects.

NEW SECTION. **Sec. 6.** A new section is added to chapter 70A.05 RCW to read as follows:

(1) The department of ecology shall work with the office of financial management and other relevant state agencies and entities to facilitate coordination of a state response to federal funding opportunities related to climate resilience.

(2) In seeking to better coordinate funding for climate resilience, the department of ecology must develop an interagency work group structure and may leverage any existing forums such as the interagency, multijurisdictional system improvement team established in RCW 43.155.150.

NEW SECTION. **Sec. 7.** A new section is added to chapter 70A.05 RCW to read as follows:

(1) By September 30, 2024, the department of ecology shall provide the estimated state agency costs for implementing the updated climate response strategy, including existing programs and new recommended actions, to the governor and appropriate committees of the legislature. Estimated state agency costs should be projected over two, four, and 10-year time frames.

(2) The department of ecology shall track funding appropriated by the legislature for implementing the strategy and include this information as part of reporting to the governor's office on odd-numbered years starting in 2025.

NEW SECTION. **Sec. 8.** A new section is added to chapter 70A.05 RCW to read as follows:

Nothing in this chapter creates any new or additional regulatory authority for any state agency.

Passed by the House April 13, 2023.
Passed by the Senate April 8, 2023.
Approved by the Governor April 25, 2023.
Filed in Office of Secretary of State April 26, 2023.

CHAPTER 170

[Engrossed Substitute House Bill 1175]

PETROLEUM UNDERGROUND STORAGE TANKS—FINANCIAL ASSURANCE PROGRAM

AN ACT Relating to creating a state financial assurance program for petroleum underground storage tanks; amending RCW 82.23A.020; reenacting and amending RCW 70A.325.020 and 43.79A.040; adding a new chapter to Title 70A RCW; prescribing penalties; providing an effective date; and providing expiration dates.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The purpose of this chapter is to create a state financial assurance program that adequately protects public health and safety and the environment from impacts due to petroleum underground storage tank system releases and meets the federal requirements for financial assurance so that a petroleum release will be appropriately addressed. The program focuses on prevention of releases, responsiveness to any release, and emphasizes remediation of releases in areas of risk for drinking water impacts or to equitably protect human health and the environment in communities that are marginalized, overburdened, and underserved. The program is administered by the pollution liability insurance agency.

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

(1) "Agency" means the pollution liability insurance agency.

(2) "Annual aggregate" means the maximum amount of money the program will pay for all of an owner's or operator's eligible costs associated with a petroleum underground storage tank in one year.

(3) "Bodily injury" means actual medically documented costs and medically documentable future costs of adverse health effects that have resulted from exposure to a release from a petroleum underground storage tank. The term does not include pain and suffering.

(4) "Director" means the director or designee of the state pollution liability insurance agency.

(5) "Loss declaration form" means a request for payment from the state financial assurance program filed by the owner or operator.

(6) "Loss reserve" means the amount set aside by the agency for cost and expenses related to requests that have been made by an owner or operator.

(7) "Occurrence" means an accident, including continuous or repeated exposure to conditions, that results in a release from a petroleum underground storage tank.

(8) "Operator" means a person in control of, or having responsibility for, the daily operation of a petroleum underground storage tank.

(9) "Owner" means a person who owns a petroleum underground storage tank.

(10) "Per occurrence" means the period of time from identification through remediation of a release from a petroleum underground storage tank.

(11) "Petroleum" means any petroleum-based substance, including crude oil or any fraction that is liquid at standard conditions of temperature and pressure. "Petroleum" includes, but is not limited to, petroleum and petroleum-based substances comprised of a complex blend of hydrocarbons, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, used oils, and heating oils. The term does not include propane, asphalt, or any other petroleum product that is not liquid at standard conditions of temperature and pressure. Standard conditions of temperature and pressure are at 60 degrees Fahrenheit and 14.7 pounds per square inch absolute.

(12) "Petroleum underground storage tank" means an underground storage tank system regulated under chapter 70A.355 RCW or subtitle I of the solid waste disposal act (42 U.S.C. chapter 82, subchapter IX) that is used for storing petroleum.

(13) "Petroleum underground storage tank facility" means the location where the petroleum underground storage tank is located. The term encompasses all real property under common ownership associated with the operation of the petroleum underground storage tank.

(14) "Program" means the state financial assurance program created in this chapter.

(15) "Property damage" means a documented adverse physical impact to structures or property as a result of a release from a petroleum underground storage tank.

(16) "Release" has the same meaning as defined in RCW 70A.305.020.

(17) "Remedial action" has the same meaning as defined in RCW 70A.305.020.

(18) "Surplus reserve" means the amount set aside by the agency to provide financial protection from unexpected losses.

(19) "Third-party claim" means a civil action brought or asserted by an injured party against an owner or operator of a petroleum underground storage tank for bodily injury or property damages resulting from a release from a petroleum underground storage tank. The following entities are not considered a third party: A petroleum underground storage tank owner or operator; the owner of the property where the petroleum underground storage tank is located; a person to whom properties are transferred in anticipation of damage due to a release; employees or agents of an owner or operator; or employees or agents of the property owner.

NEW SECTION. **Sec. 3.** (1) The agency must establish and administer a state financial assurance program for owners and operators of petroleum underground storage tanks that meets the financial responsibility requirements established under chapter 70A.355 RCW.

(2) To participate in the program, an owner or operator must register a petroleum underground storage tank in accordance with procedures established by the agency and maintain compliance with the program eligibility requirements established by the agency. The agency may remove from the program any owner or operator who fails to maintain compliance with the program eligibility requirements.

(3) The agency may conduct an assessment of a registered petroleum underground storage tank facility and any release from the petroleum underground storage tank to determine program or cost eligibility. If an owner or operator does not allow an assessment, the agency may remove the owner or operator from the program or deny requests for payment under the program.

(4) Under the program, the agency may provide an eligible owner or operator of a registered petroleum underground storage tank the following financial assurances:

(a) For releases occurring after tank registration, up to $2,000,000 per occurrence for taking remedial action and for compensating third parties for bodily injury and property damage caused by the release during the time the tank is registered by the owner or operator; and

(b) For releases occurring prior to tank registration, up to $1,000,000 per occurrence for taking remedial action.

(5) Under the program, the agency may not expend more than $3,000,000 per state fiscal year for multiple occurrences involving a single petroleum underground storage tank.

(6) The agency may prioritize funding for a release under the program based on the following factors:

(a) The threats posed by the release to human health and the environment;

(b) Whether the population threatened by the release may include a vulnerable population or an overburdened community as defined in RCW 70A.02.010; and

(c) Other factors specified by the agency.

(7) Claims for remedial action costs will receive priority over payment of a third-party claim. Before funding any third-party claim resulting from a release under the program, the agency must reserve the estimated cost of any remedial

actions necessary to address the release, and if funding is remaining then payment may be made on an eligible third-party claim.

(8) Funding for remedial actions and third-party claims under the program is limited to the reasonable and necessary eligible costs established by the agency.

(a) For remedial actions, the agency may establish a range of eligible costs or base payment of eligible costs on criteria to be met by persons who contract to perform remedial actions.

(b) The agency is not liable for any costs for remedial actions or third-party claims under the program where no owner or operator exists.

(9) The agency may require an agency representative to be present during the removal of a registered petroleum underground storage tank. If an owner or operator does not allow an agency representative to be present during the removal or does not comply with procedures established by the agency, the agency may deny requests for payment of tank removal costs under the program.

NEW SECTION. **Sec. 4.** The agency must by rule establish a fee to recover from owners and operators of registered petroleum underground storage tanks the cost of administering the program. The fee may be collected on an annual basis and may not exceed $25,000 per petroleum underground storage tank per year.

NEW SECTION. **Sec. 5.** (1) The agency may require an owner or operator to return any cost overpayment made by the agency under this chapter. If the cost overpayment is not returned upon request by the agency:

(a) The agency may file a lien on the petroleum underground storage tank facility or other property owned by the owner or operator under section 8 of this act to recover the cost overpayment; and

(b) The attorney general, at the request of the agency, may commence a civil action against the owner or operator in superior court to recover the cost overpayment and the agency's administrative and legal expenses to recover the cost overpayment.

(2) The agency may require an owner or operator to return any cost payment made by the agency under this chapter if the owner or operator misrepresents or omits a fact relevant to a determination made by the agency under this chapter or if the owner or operator fails to complete the remedial action that the agency determined at the time of the cost payment to be necessary to adequately address the release. If the cost payment is not returned as required by the agency:

(a) The agency may file a lien on the petroleum underground storage tank facility or other property owned by the owner or operator under section 8 of this act to recover the cost payment; and

(b) The attorney general, at the request of the agency, may commence a civil action against the owner or operator in superior court to recover:

(i) The cost payment;

(ii) A civil penalty as determined by the court up to the full amount of the cost payment, if the agency's repayment request is based on willful actions of the owner or operator; and

(iii) The agency's administrative and legal expenses to recover the cost payment.

(3) If a person, with intent to defraud, submits a loss declaration form, or issues an invoice or other demand for payment under this chapter with

knowledge that it is false in whole or in part, and with knowledge that it is being submitted to the agency for cost payment, the agency may require that the person return any cost payment received based on the false loss declaration form, invoice, or other demand for payment. If the cost payment is not returned as required by the agency:

(a) The agency may file a lien on the petroleum underground storage tank facility or other property owned by the owner or operator under section 8 of this act to recover the cost payment; and

(b) The attorney general, at the request of the agency, may commence a civil action against the person in superior court to recover:

(i) The cost payment;

(ii) A civil penalty as determined by the court up to the full amount of the cost payment; and

(iii) The agency's administrative and legal expenses to recover the cost payment.

NEW SECTION. **Sec. 6.** (1) The agency may conduct remedial actions to investigate or clean up a release from a petroleum underground storage tank registered under the state financial assurance program if the following conditions are met:

(a) The owner or operator has received, or is eligible to receive, funding for remedial actions under the program; and

(b) The owner or operator provides consent for the agency to:

(i) Conduct the remedial actions; and

(ii) Enter upon the real property to conduct the remedial actions.

(2) The agency may not expend more per occurrence to take remedial action under this section than the financial assurance limits specified in section 3 of this act.

NEW SECTION. **Sec. 7.** (1) The agency may conduct remedial actions to investigate or clean up a release from a petroleum underground storage tank, even if the petroleum underground storage tank is not registered under the state financial assurance program, if the following conditions are met:

(a) The release occurs in an area of risk for drinking water impacts or where addressing the release is necessary to equitably protect human health and the environment in communities that have been marginalized, overburdened, and underserved;

(b) The owner or operator, or owner of the property where the petroleum underground storage tank is located, provides consent for the agency to:

(i) Conduct the remedial actions;

(ii) Enter upon the real property to conduct the remedial actions; and

(iii) Recover the costs of the remedial actions from the owner or operator or potentially liable persons; and

(c) The owner of the petroleum underground storage tank facility consents to the agency filing a lien on the facility under section 8 of this act to recover the agency's remedial action costs.

(2) The agency may seek recovery of any remedial action costs incurred by the agency under this section from any liable person. The agency may file a lien on the petroleum underground storage tank facility under section 8 of this act to recover the agency's remedial action costs. The attorney general, at the request

of the agency, may commence a civil action against any liable person to recover the agency's remedial action costs.

NEW SECTION. **Sec. 8.** (1) The agency may file a lien against the petroleum underground storage tank facility where the petroleum underground storage tank is located or property owned by the owner or operator of the petroleum underground storage tank if the agency incurs remedial action costs under section 7 of this act or demands repayment of costs paid under section 5 of this act and those costs are not recovered by the agency.

(a) A lien filed under this section may not exceed the remedial action costs incurred or repayments demanded by the agency.

(b) A lien filed under this section has priority in rank over all other privileges, liens, monetary encumbrances, or other security interests affecting the real property, whenever incurred, filed, or recorded, except for local and special district property tax assessments.

(2) Before filing a lien under this section, the agency shall give notice of its intent to file a lien to the owner of the petroleum underground storage tank facility on which the lien is to be filed, mortgagees, and lienholders of record.

(a) The agency shall send the notice by certified mail to the petroleum underground storage tank facility owner and mortgagees of record at the addresses listed in the recorded documents. If the petroleum underground storage tank facility owner is unknown or if a mailed notice is returned as undeliverable, the agency shall provide notice by posting a legal notice in the newspaper of largest circulation in the county in which the site is located. The notice must provide:

(i) A statement of the purpose of the lien;

(ii) A brief description of the real property to be affected by the lien; and

(iii) A statement of the remedial action costs incurred or repayments demanded by the agency.

(b) If the agency has reason to believe that exigent circumstances require the filing of a lien prior to giving notice under this subsection, the agency may file the lien immediately. Exigent circumstances include, but are not limited to, an imminent bankruptcy filing by the petroleum underground storage tank facility owner or the imminent transfer or sale of the real property subject to lien by the petroleum underground storage tank facility owner, or both.

(3) A lien filed under this section is effective when a statement of lien is filed with the county auditor in the county where the petroleum underground storage tank is located. The statement of lien must include a description of the real property subject to lien and the amount of the lien.

(4) Unless the agency determines it is in the public interest to remove the lien, the lien continues until the liabilities for the remedial action costs incurred or repayments demanded by the agency have been satisfied through sale of the real property, foreclosure, or other means agreed to by the agency. Any action for foreclosure of the lien must be brought by the attorney general in a civil action in the court having jurisdiction and in the manner prescribed for judicial foreclosure of a mortgage under chapter 61.24 RCW.

(5) The agency may not file a lien under this section against a petroleum underground storage tank owned by a local government.

NEW SECTION. **Sec. 9.** (1) The following moneys must be deposited into the pollution liability insurance program trust account created in RCW 70A.325.020:

(a) All moneys appropriated by the legislature to pay for the agency's operating costs to carry out the purposes of this chapter;

(b) All fees or contributions collected from owners or operators under section 4 of this act;

(c) Any recovery of remedial action costs incurred by the agency under this act; and

(d) Any payments recovered or civil penalties collected by the agency under section 5 of this act.

(2) Moneys in the pollution liability insurance program trust account created in RCW 70A.325.020 may be used by the agency to carry out the purposes of this chapter.

NEW SECTION. **Sec. 10.** (1) The agency must monitor the performance of the state financial assurance program and, after the end of each biennium, publish a financial report on the program showing administrative and other expenses paid from the program.

(2) For each calendar quarter, the agency must determine the loss and surplus reserves required for the state financial assurance program. The agency must notify the department of revenue of this amount by the 15th day of each calendar quarter.

NEW SECTION. **Sec. 11.** (1) The agency must adopt rules under chapter 34.05 RCW as necessary to carry out the provisions of this chapter. To accelerate remedial actions, the agency may implement the program through interpretative guidance pending adoption of rules.

(2) The department of ecology must adopt rules under chapter 34.05 RCW to enable use of the program authorized under this chapter to meet the financial responsibility requirements of chapter 70A.355 RCW. The rules must be consistent with and no less stringent than the federal regulations.

NEW SECTION. **Sec. 12.** (1) A person may request a review by the director of the following agency decisions by submitting a written request, specifying the basis for the review, in accordance with procedures established by the agency:

(a) A denial of program eligibility;

(b) A denial of eligibility for payment under the program;

(c) Amount of payment allowed for remedial actions;

(d) Amount of payment allowed for a third-party claim; and

(e) An agency request for cost repayment under section 5 of this act.

(2) A person has 45 days after the decision to file a written request for review with the director. If the written request for review is received within 45 days, the director shall conduct an adjudicative hearing under chapter 34.05 RCW.

NEW SECTION. **Sec. 13.** (1) Nothing in this chapter establishes or creates any liability or responsibility on the part of the agency or the state as administrators of the program to pay any costs for remedial actions or third-party claims from any source other than the pollution liability insurance program trust account.

(2) The agency and the state as administrators of the program have no liability or responsibility to make payments for remedial action costs or third-party claims if the moneys in the account are insufficient.

(3) If the moneys in the account are insufficient to make the payments at the time the loss declaration form is filed, these requests must be paid in the order of filing at such time as moneys accrue in the account, except for releases from a petroleum underground storage tank that present an imminent threat to human health and the environment must receive first priority for receiving moneys to eliminate the imminent threat.

NEW SECTION. **Sec. 14.** Officers, employees, and authorized representatives of the agency and the state of Washington are immune from civil liability and no cause of action of any nature may arise from any act or omission in exercising powers and duties under this chapter.

NEW SECTION. **Sec. 15.** (1) Nothing in this chapter limits the authority of the department of ecology under chapter 70A.305 RCW.

(2) Nothing in this chapter affects or modifies the obligations or liability of any person under any other state or federal law.

(3) The agency is authorized to recover the costs of remedial actions conducted by the agency under this act, including the use of cost recovery options in the model toxics control act, chapter 70A.305 RCW, or other applicable state or federal laws.

NEW SECTION. **Sec. 16.** This chapter expires July 1, 2030.

Sec. 17. RCW 82.23A.020 and 2020 c 20 s 1484 are each amended to read as follows:

(1) A tax is imposed on the privilege of possession of petroleum products in this state. The rate of the tax shall be thirty one-hundredths of one percent multiplied by the wholesale value of the petroleum product. ((~~After July 1, 2021, the rate of tax is fifteen one-hundredths of one percent multiplied by the wholesale value of the petroleum product.~~)) For purposes of determining the tax imposed under this section for petroleum products introduced at the rack, the wholesale value is determined when the petroleum product is removed at the rack unless the removal is to an exporter licensed under chapter 82.38 RCW for direct delivery to a destination outside of the state. For all other cases, the wholesale value is determined upon the first nonbulk possession in the state.

(2) Except as identified in RCW 70A.345.130, moneys collected under this chapter shall be deposited in the pollution liability insurance program trust account under RCW 70A.325.020.

(3) Chapter 82.32 RCW applies to the tax imposed in this chapter. The tax due dates, reporting periods, and return requirements applicable to chapter 82.04 RCW apply equally to the tax imposed in this chapter.

(4) Within ((~~thirty~~)) 30 days after the end of each calendar quarter the department shall determine the "quarterly balance," which shall be the cash balance in the pollution liability insurance program trust account as of the last day of that calendar quarter, after excluding the reserves determined for that quarter under RCW 70A.325.020(2) and chapter 70A.--- RCW (the new chapter created in section 22 of this act). Balance determinations by the department under this section are final and shall not be used to challenge the validity of any

tax imposed under this section. For each subsequent calendar quarter, tax shall be imposed under this section during the entire calendar quarter unless:

(a) Tax was imposed under this section during the immediately preceding calendar quarter, and the most recent quarterly balance is more than ((~~fifteen million dollars~~)) $30,000,000; or

(b) Tax was not imposed under this section during the immediately preceding calendar quarter, and the most recent quarterly balance is more than ((~~seven million five hundred thousand dollars~~)) $15,000,000.

Sec. 18. RCW 70A.325.020 and 2020 c 156 s 4 and 2020 c 20 s 1383 are each reenacted and amended to read as follows:

(1) The pollution liability insurance program trust account is established in the custody of the state treasurer. ((~~All funds appropriated for this chapter and all premiums collected for reinsurance shall be deposited in the account. Except as provided in chapter 70A.345 RCW, expenditures from the account shall be used exclusively for the purposes of this chapter including payment of costs of administering the pollution liability insurance program and emergency program.~~))

(a) The following moneys must be deposited in the account:

(i) All moneys specified in RCW 82.23A.020 for deposit into the account;

(ii) All moneys appropriated to carry out the purposes of this chapter and all premiums collected for reinsurance under this chapter; and

(iii) All moneys specified in section 9 of this act.

(b) Except as provided in chapter 70A.345 RCW, expenditures from the account must be used exclusively for:

(i) The purposes of this chapter, including payment of costs of administering the pollution liability insurance program and emergency program; and

(ii) The purposes of chapter 70A.--- RCW (the new chapter created in section 22 of this act), including, but not limited to, establishing and administering the state financial assurance program for petroleum underground storage tanks authorized by chapter 70A.--- RCW (the new chapter created in section 22 of this act).

(c) Expenditures for payment of administrative and operating costs of the agency are subject to the allotment procedures under chapter 43.88 RCW and may be made only after appropriation by statute. No appropriation is required for other expenditures from the account.

(2) Each calendar quarter, the director shall report to the insurance commissioner the loss and surplus reserves required for the calendar quarter. The director shall notify the department of revenue of this amount by the ((~~fifteenth~~)) 15th day of each calendar quarter.

((~~(3) During the 2019-2021 fiscal biennium, the legislature may make appropriations from the pollution liability insurance program trust account for the leaking tank model remedies activity.~~))

Sec. 19. RCW 43.79A.040 and 2022 c 244 s 3, 2022 c 206 s 8, 2022 c 183 s 16, and 2022 c 162 s 6 are each reenacted and amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury, and

may be commingled with moneys in the state treasury for cash management and cash balance purposes.

(2) All income received from investment of the treasurer's trust fund must be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments must occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer must distribute the earnings credited to the investment income account to the state general fund except under (b), (c), and (d) of this subsection.

(b) The following accounts and funds must receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The 24/7 sobriety account, the Washington promise scholarship account, the Gina Grant Bull memorial legislative page scholarship account, the Rosa Franklin legislative internship program scholarship account, the Washington advanced college tuition payment program account, the Washington college savings program account, the accessible communities account, the Washington achieving a better life experience program account, the Washington career and college pathways innovation challenge program account, the community and technical college innovation account, the agricultural local fund, the American Indian scholarship endowment fund, the behavioral health loan repayment program account, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the county enhanced 911 excise tax account, the county road administration board emergency loan account, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the energy facility site evaluation council account, the fair fund, the family and medical leave insurance account, the fish and wildlife federal lands revolving account, the natural resources federal lands revolving account, the food animal veterinarian conditional scholarship account, the forest health revolving account, the fruit and vegetable inspection account, the educator conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the Washington global health technologies and product development account, the grain inspection revolving fund, the Washington history day account, the industrial insurance rainy day fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the low-income home rehabilitation revolving loan program account, the multiagency permitting team account, the northeast Washington wolf-livestock management account, the pollution liability insurance program trust account, the produce railcar pool account, the public use general aviation airport loan revolving account, the regional transportation investment district account, the rural rehabilitation account, the Washington sexual assault kit account, the stadium and exhibition

center account, the youth athletic facility account, the self-insurance revolving fund, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account, the life sciences discovery fund, the Washington state library-archives building account, the reduced cigarette ignition propensity account, the center for deaf and hard of hearing youth account, the school for the blind account, the Millersylvania park trust fund, the public employees' and retirees' insurance reserve fund, the school employees' benefits board insurance reserve fund, the public employees' and retirees' insurance account, the school employees' insurance account, the long-term services and supports trust account, the radiation perpetual maintenance fund, the Indian health improvement reinvestment account, the department of licensing tuition recovery trust fund, the student achievement council tuition recovery trust fund, the tuition recovery trust fund, the Washington student loan account, the industrial insurance premium refund account, the mobile home park relocation fund, the natural resources deposit fund, the Washington state health insurance pool account, the federal forest revolving account, and the library operations account.

(c) The following accounts and funds must receive 80 percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advance right-of-way revolving fund, the advanced environmental mitigation revolving account, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(d) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the custody of the state treasurer that deposits funds into a fund or account in the custody of the state treasurer pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. **Sec. 20.** Section 17 of this act takes effect October 1, 2023.

NEW SECTION. **Sec. 21.** Section 19 of this act expires July 1, 2030.

NEW SECTION. **Sec. 22.** Sections 1 through 16 of this act constitute a new chapter in Title 70A RCW.

Passed by the House March 16, 2023.

Passed by the Senate April 11, 2023.

Approved by the Governor April 25, 2023.

Filed in Office of Secretary of State April 26, 2023.

CHAPTER 171

[House Bill 1197]

WORKERS' COMPENSATION—ATTENDING PROVIDERS

AN ACT Relating to defining attending provider and clarifying other provider functions for workers' compensation claims, and adding psychologists as attending providers for mental health only claims; amending RCW 51.04.050, 51.28.010, 51.28.020, 51.28.030, 51.32.055, 51.32.090, 51.32.095, 51.36.010, 51.36.022, 51.36.060, and 51.36.070; adding a new section to chapter 51.08 RCW; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 51.04.050 and 2004 c 65 s 2 are each amended to read as follows:

In all hearings, actions or proceedings before the department or the board of industrial insurance appeals, or before any court on appeal from the board, any ((~~physician or licensed advanced registered nurse practitioner~~)) health services provider having theretofore examined or treated the claimant may be required to testify fully regarding such examination or treatment, and shall not be exempt from so testifying by reason of the relation of the ((~~physician or licensed advanced registered nurse practitioner~~)) health services provider to patient.

NEW SECTION. **Sec. 2.** A new section is added to chapter 51.08 RCW to read as follows:

"Attending provider" means a person who is a member of the health care provider network established under RCW 51.36.010, is treating injured workers within the person's scope of practice, and is licensed under Title 18 RCW in one of the following professions: Physicians, chapter 18.71 RCW; osteopathy, chapter 18.57 RCW; chiropractic, chapter 18.25 RCW; naturopathy, chapter 18.36A RCW; podiatric medicine and surgery, chapter 18.22 RCW; dentistry, chapter 18.32 RCW; optometry, chapter 18.53 RCW; in the case of claims solely for mental health conditions, psychology, chapter 18.83 RCW; physician assistants, chapter 18.71A RCW; and licensed advanced registered nurse practitioners, chapter 18.79 RCW.

Sec. 3. RCW 51.28.010 and 2007 c 77 s 1 are each amended to read as follows:

(1) Whenever any accident occurs to any worker it shall be the duty of such worker or someone in his or her behalf to forthwith report such accident to his or her employer, superintendent, or supervisor in charge of the work, and of the employer to at once report such accident and the injury resulting therefrom to the department pursuant to RCW 51.28.025 where the worker has received treatment from a physician ((~~or a~~)), osteopathic physician, chiropractor, naturopath, podiatric physician, optometrist, dentist, licensed advanced registered nurse practitioner, physician assistant, or psychologist in claims solely for mental health conditions, has been hospitalized, disabled from work, or has died as the apparent result of such accident and injury.

(2) Upon receipt of such notice of accident, the department shall immediately forward to the worker or his or her beneficiaries or dependents notification, in nontechnical language, of their rights under this title. The notice must specify the worker's right to receive health services from a ((~~physician or a licensed advanced registered nurse practitioner~~)) provider of the worker's choice under RCW 51.36.010(2)(a), including chiropractic services under RCW

51.36.015, and must list the types of providers authorized to provide these services.

(3) Employers shall not engage in claim suppression.

(4) For the purposes of this section, "claim suppression" means intentionally:

(a) Inducing employees to fail to report injuries;

(b) Inducing employees to treat injuries in the course of employment as off-the-job injuries; or

(c) Acting otherwise to suppress legitimate industrial insurance claims.

(5) In determining whether an employer has engaged in claim suppression, the department shall consider the employer's history of compliance with industrial insurance reporting requirements, and whether the employer has discouraged employees from reporting injuries or filing claims. The department has the burden of proving claim suppression by a preponderance of the evidence.

(6) Claim suppression does not include bona fide workplace safety and accident prevention programs or an employer's provision at the worksite of first aid as defined by the department. The department shall adopt rules defining bona fide workplace safety and accident prevention programs and defining first aid.

Sec. 4. RCW 51.28.020 and 2005 c 108 s 3 are each amended to read as follows:

(1)(a) Where a worker is entitled to compensation under this title he or she shall file with the department or his or her self-insured employer, as the case may be, his or her application for such, together with the certificate of the physician ((~~or~~)), osteopathic physician, chiropractor, naturopath, podiatric physician, optometrist, dentist, licensed advanced registered nurse practitioner, physician assistant, or psychologist in claims solely for mental health conditions, who attended him or her. An application form developed by the department shall include a notice specifying the worker's right to receive health services from a ((~~physician or licensed advanced registered nurse practitioner~~)) provider of the worker's choice under RCW 51.36.010(2)(a), ((~~including chiropractic services under RCW 51.36.015,~~)) and listing the types of providers authorized to provide these services.

(b) The physician ((~~or~~)), osteopathic physician, chiropractor, naturopath, podiatric physician, optometrist, dentist, licensed advanced registered nurse practitioner, physician assistant, or psychologist in claims solely for mental health conditions, who attended the injured worker shall inform the injured worker of his or her rights under this title and lend all necessary assistance in making this application for compensation and such proof of other matters as required by the rules of the department without charge to the worker. The department shall provide ((~~physicians with~~)) a manual which outlines the procedures to be followed in applications for compensation involving occupational diseases, and which describes claimants' rights and responsibilities related to occupational disease claims.

(2) If the application required by this section is:

(a) ((~~Filed on behalf of the worker by the physician who attended the worker, the physician may transmit the application to the department electronically using facsimile mail;~~

~~(b)~~))) Made to the department and the employer has not received a copy of the application, the department shall immediately send a copy of the application to the employer; or

(((~~(c)~~))) (b) Made to a self-insured employer, the employer shall forthwith send a copy of the application to the department.

(3) The application required by this section may be transmitted to the department electronically.

Sec. 5. RCW 51.28.030 and 2004 c 65 s 6 are each amended to read as follows:

Where death results from injury the parties entitled to compensation under this title, or someone in their behalf, shall make application for the same to the department or self-insurer as the case may be, which application must be accompanied with proof of death and proof of relationship showing the parties to be entitled to compensation under this title, certificates of attending ((~~physician or licensed advanced registered nurse practitioner~~)) provider, if any, and such proof as required by the rules of the department.

Upon receipt of notice of accident under RCW 51.28.010, the director shall immediately forward to the party or parties required to make application for compensation under this section, notification, in nontechnical language, of their rights under this title.

Sec. 6. RCW 51.32.055 and 2004 c 65 s 8 are each amended to read as follows:

(1) One purpose of this title is to restore the injured worker as nearly as possible to the condition of self-support as an able-bodied worker. Benefits for permanent disability shall be determined under the director's supervision, except as otherwise authorized in subsection (9) of this section, only after the injured worker's condition becomes fixed.

(2) All determinations of permanent disabilities shall be made by the department, except as otherwise authorized in subsection (9) of this section. Either the worker, employer, or self-insurer may make a request or the inquiry may be initiated by the director or, as authorized in subsection (9) of this section, by the self-insurer on the director or the self-insurer's own motion. Determinations shall be required in every instance where permanent disability is likely to be present. All medical reports and other pertinent information in the possession of or under the control of the employer or, if the self-insurer has made a request to the department, in the possession of or under the control of the self-insurer shall be forwarded to the director with the request.

(3) A request for determination of permanent disability shall be examined by the department or, if authorized in subsection (9) of this section, the self-insurer, and the department shall issue an order in accordance with RCW 51.52.050 or, in the case of a self-insured employer, the self-insurer may: (a) Enter a written order, communicated to the worker and the department self-insurance section in accordance with subsection (9) of this section, or (b) request the department to issue an order in accordance with RCW 51.52.050.

(4) The department or, in cases authorized in subsection (9) of this section, the self-insurer may require that the worker present himself or herself for a special medical examination by a physician or physicians selected by the department, and the department or, in cases authorized in subsection (9) of this

section, the self-insurer may require that the worker present himself or herself for a personal interview. The costs of the examination or interview, including payment of any reasonable travel expenses, shall be paid by the department or self-insurer, as the case may be.

(5) The director may establish a medical bureau within the department to perform medical examinations under this section. Physicians hired or retained for this purpose shall be grounded in industrial medicine and in the assessment of industrial physical impairment. Self-insurers shall bear a proportionate share of the cost of the medical bureau in a manner to be determined by the department.

(6) Where a dispute arises from the handling of any claim before the condition of the injured worker becomes fixed, the worker, employer, or self-insurer may request the department to resolve the dispute or the director may initiate an inquiry on his or her own motion. In these cases, the department shall proceed as provided in this section and an order shall issue in accordance with RCW 51.52.050.

(7)(a) If a claim (i) is accepted by a self-insurer after June 30, 1986, and before August 1, 1997, (ii) involves only medical treatment and the payment of temporary disability compensation under RCW 51.32.090 or only the payment of temporary disability compensation under RCW 51.32.090, (iii) at the time medical treatment is concluded does not involve permanent disability, (iv) is one with respect to which the department has not intervened under subsection (6) of this section, and (v) the injured worker has returned to work with the self-insured employer of record, whether at the worker's previous job or at a job that has comparable wages and benefits, the claim may be closed by the self-insurer, subject to reporting of claims to the department in a manner prescribed by department rules adopted under chapter 34.05 RCW.

(b) All determinations of permanent disability for claims accepted under this subsection (7) by self-insurers shall be made by the self-insured section of the department under subsections (1) through (4) of this section.

(c) Upon closure of a claim under (a) of this subsection, the self-insurer shall enter a written order, communicated to the worker and the department self-insurance section, which contains the following statement clearly set forth in bold face type: "This order constitutes notification that your claim is being closed with medical benefits and temporary disability compensation only as provided, and with the condition you have returned to work with the self-insured employer. If for any reason you disagree with the conditions or duration of your return to work or the medical benefits or the temporary disability compensation that has been provided, you must protest in writing to the department of labor and industries, self-insurance section, within sixty days of the date you received this order."

(8)(a) If a claim (i) is accepted by a self-insurer after June 30, 1990, and before August 1, 1997, (ii) involves only medical treatment, (iii) does not involve payment of temporary disability compensation under RCW 51.32.090, and (iv) at the time medical treatment is concluded does not involve permanent disability, the claim may be closed by the self-insurer, subject to reporting of claims to the department in a manner prescribed by department rules adopted under chapter 34.05 RCW. Upon closure of a claim, the self-insurer shall enter a written order, communicated to the worker, which contains the following

statement clearly set forth in bold-face type: "This order constitutes notification that your claim is being closed with medical benefits only, as provided. If for any reason you disagree with this closure, you must protest in writing to the Department of Labor and Industries, Olympia, within 60 days of the date you received this order. The department will then review your claim and enter a further determinative order."

(b) All determinations of permanent disability for claims accepted under this subsection (8) by self-insurers shall be made by the self-insured section of the department under subsections (1) through (4) of this section.

(9)(a) If a claim: (i) Is accepted by a self-insurer after July 31, 1997; (ii)(A) involves only medical treatment, or medical treatment and the payment of temporary disability compensation under RCW 51.32.090, and a determination of permanent partial disability, if applicable, has been made by the self-insurer as authorized in this subsection; or (B) involves only the payment of temporary disability compensation under RCW 51.32.090 and a determination of permanent partial disability, if applicable, has been made by the self-insurer as authorized in this subsection; (iii) is one with respect to which the department has not intervened under subsection (6) of this section; and (iv) concerns an injured worker who has returned to work with the self-insured employer of record, whether at the worker's previous job or at a job that has comparable wages and benefits, the claim may be closed by the self-insurer, subject to reporting of claims to the department in a manner prescribed by department rules adopted under chapter 34.05 RCW.

(b) If a ((~~physician or licensed advanced registered nurse practitioner submits a~~)) medical report submitted to the self-insurer ((~~that~~)) concludes that the worker's condition is fixed and stable and supports payment of a permanent partial disability award, and, if within fourteen days from the date the self-insurer mailed the report to the attending ((~~or treating physician or licensed advanced registered nurse practitioner~~)) provider, the worker's attending ((~~or treating physician or licensed advanced registered nurse practitioner~~)) provider disagrees in writing that the worker's condition is fixed and stable, the self-insurer must get a supplemental medical opinion from a provider on the department's approved examiner's list before closing the claim. In the alternative, the self-insurer may forward the claim to the department, which must review the claim and enter a final order as provided for in RCW 51.52.050.

(c) Upon closure of a claim under this subsection (9), the self-insurer shall enter a written order, communicated to the worker and the department self-insurance section, which contains the following statement clearly set forth in bold-face type: "This order constitutes notification that your claim is being closed with such medical benefits and temporary disability compensation as provided to date and with such award for permanent partial disability, if any, as set forth below, and with the condition that you have returned to work with the self-insured employer. If for any reason you disagree with the conditions or duration of your return to work or the medical benefits, temporary disability compensation provided, or permanent partial disability that has been awarded, you must protest in writing to the Department of Labor and Industries, Self-Insurance Section, within sixty days of the date you received this order. If you do not protest this order to the department, this order will become final."

(d) All determinations of permanent partial disability for claims accepted by self-insurers under this subsection (9) may be made by the self-insurer or the self-insurer may request a determination by the self-insured section of the department. All determinations shall be made under subsections (1) through (4) of this section.

(10) If the department receives a protest of an order issued by a self-insurer under subsections (7) through (9) of this section, the self-insurer's closure order must be held in abeyance. The department shall review the claim closure action and enter a further determinative order as provided for in RCW 51.52.050. If no protest is timely filed, the closing order issued by the self-insurer shall become final and shall have the same force and effect as a department order that has become final under RCW 51.52.050.

(11) If within two years of claim closure under subsections (7) through (9) of this section, the department determines that the self-insurer has made payment of benefits because of clerical error, mistake of identity, or innocent misrepresentation or the department discovers a violation of the conditions of claim closure, the department may require the self-insurer to correct the benefits paid or payable. This subsection (11) does not limit in any way the application of RCW 51.32.240.

(12) For the purposes of this section, "comparable wages and benefits" means wages and benefits that are at least ninety-five percent of the wages and benefits received by the worker at the time of injury.

Sec. 7. RCW 51.32.090 and 2011 1st sp.s. c 37 s 101 are each amended to read as follows:

(1) When the total disability is only temporary, the schedule of payments contained in RCW 51.32.060 (1) and (2) shall apply, so long as the total disability continues.

(2) Any compensation payable under this section for children not in the custody of the injured worker as of the date of injury shall be payable only to such person as actually is providing the support for such child or children pursuant to the order of a court of record providing for support of such child or children.

(3)(a) As soon as recovery is so complete that the present earning power of the worker, at any kind of work, is restored to that existing at the time of the occurrence of the injury, the payments shall cease. If and so long as the present earning power is only partially restored, the payments shall:

(i) For claims for injuries that occurred before May 7, 1993, continue in the proportion which the new earning power shall bear to the old; or

(ii) For claims for injuries occurring on or after May 7, 1993, equal eighty percent of the actual difference between the worker's present wages and earning power at the time of injury, but: (A) The total of these payments and the worker's present wages may not exceed one hundred fifty percent of the average monthly wage in the state as computed under RCW 51.08.018; (B) the payments may not exceed one hundred percent of the entitlement as computed under subsection (1) of this section; and (C) the payments may not be less than the worker would have received if (a)(i) of this subsection had been applicable to the worker's claim.

(b) No compensation shall be payable under this subsection (3) unless the loss of earning power shall exceed five percent.

(c) The prior closure of the claim or the receipt of permanent partial disability benefits shall not affect the rate at which loss of earning power benefits are calculated upon reopening the claim.

(4)(a) The legislature finds that long-term disability and the cost of injuries is significantly reduced when injured workers remain at work following their injury. To encourage employers at the time of injury to provide light duty or transitional work for their workers, wage subsidies and other incentives are made available to employers insured with the department.

(b) Whenever the employer of injury requests that a worker who is entitled to temporary total disability under this chapter be certified by ((~~a physician or licensed advanced registered nurse practitioner~~)) the attending provider as able to perform available work other than his or her usual work, the employer shall furnish to the ((~~physician or licensed advanced registered nurse practitioner~~)) attending provider, with a copy to the worker, a statement describing the work available with the employer of injury in terms that will enable the ((~~physician or licensed advanced registered nurse practitioner~~)) attending provider to relate the ((~~physical~~)) activities of the job to the worker's disability. The ((~~physician or licensed advanced registered nurse practitioner~~)) attending provider shall then determine whether the worker is ((~~physically~~)) able to perform the work described. The worker's temporary total disability payments shall continue until the worker is released by his or her ((~~physician or licensed advanced registered nurse practitioner~~)) attending provider for the work, and begins the work with the employer of injury. If the work thereafter comes to an end before the worker's recovery is sufficient in the judgment of his or her ((~~physician or licensed advanced registered nurse practitioner~~)) attending provider to permit him or her to return to his or her usual job, or to perform other available work offered by the employer of injury, the worker's temporary total disability payments shall be resumed. Should the available work described, once undertaken by the worker, impede his or her recovery to the extent that in the judgment of his or her ((~~physician or licensed advanced registered nurse practitioner~~)) attending provider he or she should not continue to work, the worker's temporary total disability payments shall be resumed when the worker ceases such work.

(c) To further encourage employers to maintain the employment of their injured workers, an employer insured with the department and that offers work to a worker pursuant to this subsection (4) shall be eligible for reimbursement of the injured worker's wages for light duty or transitional work equal to fifty percent of the basic, gross wages paid for that work, for a maximum of sixty-six workdays within a consecutive twenty-four month period. In no event may the wage subsidies paid to an employer on a claim exceed ten thousand dollars. Wage subsidies shall be calculated using the worker's basic hourly wages or basic salary, and no subsidy shall be paid for any other form of compensation or payment to the worker such as tips, commissions, bonuses, board, housing, fuel, health care, dental care, vision care, per diem, reimbursements for work-related expenses, or any other payments. An employer may not, under any circumstances, receive a wage subsidy for a day in which the worker did not actually perform any work, regardless of whether or not the employer paid the worker wages for that day.

(d) If an employer insured with the department offers a worker work pursuant to this subsection (4) and the worker must be provided with training or instruction to be qualified to perform the offered work, the employer shall be eligible for a reimbursement from the department for any tuition, books, fees, and materials required for that training or instruction, up to a maximum of one thousand dollars. Reimbursing an employer for the costs of such training or instruction does not constitute a determination by the department that the worker is eligible for vocational services authorized by RCW 51.32.095 and 51.32.099.

(e) If an employer insured with the department offers a worker work pursuant to this subsection (4), and the employer provides the worker with clothing that is necessary to allow the worker to perform the offered work, the employer shall be eligible for reimbursement for such clothing from the department, up to a maximum of four hundred dollars. However, an employer shall not receive reimbursement for any clothing it provided to the worker that it normally provides to its workers. The clothing purchased for the worker shall become the worker's property once the work comes to an end.

(f) If an employer insured with the department offers a worker work pursuant to this subsection (4) and the worker must be provided with tools or equipment to perform the offered work, the employer shall be eligible for a reimbursement from the department for such tools and equipment and related costs as determined by department rule, up to a maximum of two thousand five hundred dollars. An employer shall not be reimbursed for any tools or equipment purchased prior to offering the work to the worker pursuant to this subsection (4). An employer shall not be reimbursed for any tools or equipment that it normally provides to its workers. The tools and equipment shall be the property of the employer.

(g) An employer may offer work to a worker pursuant to this subsection (4) more than once, but in no event may the employer receive wage subsidies for more than sixty-six days of work in a consecutive twenty-four month period under one claim. An employer may continue to offer work pursuant to this subsection (4) after the worker has performed sixty-six days of work, but the employer shall not be eligible to receive wage subsidies for such work.

(h) An employer shall not receive any wage subsidies or reimbursement of any expenses pursuant to this subsection (4) unless the employer has completed and submitted the reimbursement request on forms developed by the department, along with all related information required by department rules. No wage subsidy or reimbursement shall be paid to an employer who fails to submit a form for such payment within one year of the date the work was performed. In no event shall an employer receive wage subsidy payments or reimbursements of any expenses pursuant to this subsection (4) unless the worker's ((~~physician or licensed advanced registered nurse practitioner~~)) attending provider has restricted him or her from performing his or her usual work and the worker's ((~~physician or licensed advanced registered nurse practitioner~~)) attending provider has released him or her to perform the work offered.

(i) Payments made under (b) through (g) of this subsection are subject to penalties under RCW 51.32.240(5) in cases where the funds were obtained through willful misrepresentation.

(j) Once the worker returns to work under the terms of this subsection (4), he or she shall not be assigned by the employer to work other than the available

work described without the worker's written consent, or without prior review and approval by the worker's ((~~physician or licensed advanced registered nurse practitioner~~)) attending provider. An employer who directs a claimant to perform work other than that approved by the attending ((~~physician~~)) provider and without the approval of the worker's ((~~physician or licensed advanced registered nurse practitioner~~)) attending provider shall not receive any wage subsidy or other reimbursements for such work.

(k) If the worker returns to work under this subsection (4), any employee health and welfare benefits that the worker was receiving at the time of injury shall continue or be resumed at the level provided at the time of injury. Such benefits shall not be continued or resumed if to do so is inconsistent with the terms of the benefit program, or with the terms of the collective bargaining agreement currently in force.

(l) In the event of any dispute as to the validity of the work offered or as to the worker's ability to perform the available work offered by the employer, the department shall make the final determination pursuant to an order that contains the notice required by RCW 51.52.060 and that is subject to appeal subject to RCW 51.52.050.

(5) An employer's experience rating shall not be affected by the employer's request for or receipt of wage subsidies.

(6) The department shall create a Washington stay-at-work account which shall be funded by assessments of employers insured through the state fund for the costs of the payments authorized by subsection (4) of this section and for the cost of creating a reserve for anticipated liabilities. Employers may collect up to one-half the fund assessment from workers.

(7) No worker shall receive compensation for or during the day on which injury was received or the three days following the same, unless his or her disability shall continue for a period of fourteen consecutive calendar days from date of injury: PROVIDED, That attempts to return to work in the first fourteen days following the injury shall not serve to break the continuity of the period of disability if the disability continues fourteen days after the injury occurs.

(8) Should a worker suffer a temporary total disability and should his or her employer at the time of the injury continue to pay him or her the wages which he or she was earning at the time of such injury, such injured worker shall not receive any payment provided in subsection (1) of this section during the period his or her employer shall so pay such wages: PROVIDED, That holiday pay, vacation pay, sick leave, or other similar benefits shall not be deemed to be payments by the employer for the purposes of this subsection.

(9) In no event shall the monthly payments provided in this section:

(a) Exceed the applicable percentage of the average monthly wage in the state as computed under the provisions of RCW 51.08.018 as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

(b) For dates of injury or disease manifestation after July 1, 2008, be less than fifteen percent of the average monthly wage in the state as computed under RCW 51.08.018 plus an additional ten dollars per month if the worker is married and an additional ten dollars per month for each child of the worker up to a maximum of five children. However, if the monthly payment computed under this subsection (9)(b) is greater than one hundred percent of the wages of the worker as determined under RCW 51.08.178, the monthly payment due to the worker shall be equal to the greater of the monthly wages of the worker or the minimum benefit set forth in this section on June 30, 2008.

(10) If the supervisor of industrial insurance determines that the worker is voluntarily retired and is no longer attached to the workforce, benefits shall not be paid under this section.

(11) The department shall adopt rules as necessary to implement this section.

Sec. 8. RCW 51.32.095 and 2018 c 22 s 13 are each amended to read as follows:

(1) One of the primary purposes of this title is to enable the injured worker to become employable at gainful employment. To this end, the department or self-insurers must utilize the services of individuals and organizations, public or private, whose experience, training, and interests in vocational rehabilitation and retraining qualify them to lend expert assistance to the supervisor of industrial insurance in such programs of vocational rehabilitation as may be reasonable to make the worker employable consistent with his or her physical and mental status. Where, after evaluation and recommendation by such individuals or organizations and prior to final evaluation of the worker's permanent disability and in the sole opinion of the supervisor or supervisor's designee, whether or not medical treatment has been concluded, vocational rehabilitation is both necessary and likely to enable the injured worker to become employable at gainful employment, the supervisor or supervisor's designee may, in his or her sole discretion, pay or, if the employer is a self-insurer, direct the self-insurer to pay the cost as provided in subsection (5) of this section or RCW 51.32.099, as appropriate. An injured worker may not participate in vocational rehabilitation under this section or RCW 51.32.099 if such participation would result in a payment of benefits as described in RCW 51.32.240(5), and any benefits so paid must be recovered according to the terms of that section.

(2) Vocational rehabilitation services may be provided to an injured worker when in the sole discretion of the supervisor or the supervisor's designee vocational rehabilitation is both necessary and likely to make the worker employable at gainful employment. In determining whether to provide vocational services and at what level, the following list must be used, in order of priority with the highest priority given to returning a worker to employment:

(a) Return to the previous job with the same employer;

(b) Modification of the previous job with the same employer including transitional return to work;

(c) A new job with the same employer in keeping with any limitations or restrictions;

(d) Modification of a new job with the same employer including transitional return to work;

(e) Modification of the previous job with a new employer;

(f) A new job with a new employer or self-employment based upon transferable skills;

(g) Modification of a new job with a new employer;

(h) A new job with a new employer or self-employment involving on-the-job training;

(i) Short-term retraining.

(3) Notwithstanding subsection (2) of this section, vocational services may be provided to an injured worker who has suffered the loss or complete use of both legs, or arms, or one leg and one arm, or total eyesight when, in the sole discretion of the supervisor or the supervisor's designee, these services will either substantially improve the worker's quality of life or substantially improve the worker's ability to function in an employment setting, regardless of whether or not these services are either necessary or reasonably likely to make the worker employable at any gainful employment. Vocational services must be completed prior to the commencement of the worker's entitlement to benefits under RCW 51.32.060. However, workers who are eligible for vocational services under this subsection are not eligible for option 2 benefits, as provided in RCW 51.32.099(4) and 51.32.096.

(4) To encourage the employment of individuals who have suffered an injury or occupational disease resulting in permanent disability which may be a substantial obstacle to employment, the supervisor or supervisor's designee, in his or her sole discretion, may provide assistance including job placement services for eligible injured workers who are receiving vocational services under the return-to-work priorities listed in subsection (2)(b) through (i) of this section, except for self-employment, and to employers that employ them. The assistance listed in (a) through (f) of this subsection is only available in cases where the worker is employed:

(a) Reduction or elimination of premiums or assessments owed by employers for such workers;

(b) Reduction or elimination of charges against the employers in the event of further injury to such workers in their employ;

(c) Reimbursement of the injured worker's wages for light duty or transitional work consistent with the limitations in RCW 51.32.090(4)(c);

(d) Reimbursement for the costs of clothing that is necessary to allow the worker to perform the offered work consistent with the limitations in RCW 51.32.090(4)(e);

(e) Reimbursement for the costs of tools or equipment to allow the worker to perform the work consistent with the limitations in RCW 51.32.090(4)(f);

(f) A one-time payment equal to the lesser of ten percent of the worker's wages including commissions and bonuses paid or ten thousand dollars for continuous employment without reduction in base wages for at least twelve months. The twelve months begin the first date of employment and the one-time payment is available at the sole discretion of the supervisor of industrial insurance;

(g) The benefits described in this section are available to a state fund employer without regard to whether the worker was employed by the state fund employer at the time of injury. The benefits are available to a self-insured employer only in cases where the worker was employed by a state fund employer at the time of injury or occupational disease manifestation;

(h) The benefits described in (a) through (f) of this subsection (4) are only available in instances where a vocational rehabilitation professional and the injured worker's health care provider have confirmed that the worker has returned to work that is consistent with the worker's limitations and physical restrictions.

(5)(a) Except as provided in (b) of this subsection, costs for vocational rehabilitation benefits allowed by the supervisor or supervisor's designee under subsection (1) of this section may include the cost of books, tuition, fees, supplies, equipment, transportation, child or dependent care, and other necessary expenses for any such worker in an amount not to exceed three thousand dollars in any fifty-two week period, and the cost of continuing the temporary total disability compensation under RCW 51.32.090 while the worker is actively and successfully undergoing a formal program of vocational rehabilitation.

(b) Beginning with vocational rehabilitation plans approved on or after July 1, 1999, through December 31, 2007, costs for vocational rehabilitation benefits allowed by the supervisor or supervisor's designee under subsection (1) of this section may include the cost of books, tuition, fees, supplies, equipment, child or dependent care, and other necessary expenses for any such worker in an amount not to exceed four thousand dollars in any fifty-two week period, and the cost of transportation and continuing the temporary total disability compensation under RCW 51.32.090 while the worker is actively and successfully undergoing a formal program of vocational rehabilitation.

(c) The expenses allowed under (a) or (b) of this subsection may include training fees for on-the-job training and the cost of furnishing tools and other equipment necessary for self-employment or reemployment. However, compensation or payment of retraining with job placement expenses under (a) or (b) of this subsection may not be authorized for a period of more than fifty-two weeks, except that such period may, in the sole discretion of the supervisor after his or her review, be extended for an additional fifty-two weeks or portion thereof by written order of the supervisor.

(d) In cases where the worker is required to reside away from his or her customary residence, the reasonable cost of board and lodging must also be paid.

(e) Costs paid under this subsection must be chargeable to the employer's cost experience or must be paid by the self-insurer as the case may be.

(6) In addition to the vocational rehabilitation expenditures provided for under subsection (5) of this section and RCW 51.32.099, an additional five thousand dollars may, upon authorization of the supervisor or the supervisor's designee, be expended for: (a) Accommodations for an injured worker that are medically necessary for the worker to participate in an approved retraining plan; and (b) accommodations necessary to perform the essential functions of an occupation in which an injured worker is seeking employment, consistent with the retraining plan or the recommendations of a vocational evaluation. The injured worker's attending ((~~physician or licensed advanced registered nurse practitioner~~)) provider must verify the necessity of the modifications or accommodations. The total expenditures authorized in this subsection and the expenditures authorized under RCW 51.32.250 may not exceed five thousand dollars.

(7)(a) When the department has approved a vocational plan for a worker prior to January 1, 2008, regardless of whether the worker has begun

participating in the approved plan, costs for vocational rehabilitation benefits allowed by the supervisor or supervisor's designee under subsection (1) of this section are limited to those provided under subsections (5) and (6) of this section.

(b) For vocational plans approved for a worker between January 1, 2008, through July 31, 2015, total vocational costs allowed by the supervisor or supervisor's designee under subsection (1) of this section is limited to those provided under the pilot program established in RCW 51.32.099, and vocational rehabilitation services must conform to the requirements in RCW 51.32.099.

(8) The department must establish criteria to monitor the quality and effectiveness of rehabilitation services provided by the individuals and organizations. The state fund must make referrals for vocational rehabilitation services based on these performance criteria.

(9) The department must engage in, where feasible and cost-effective, a cooperative program with the state employment security department to provide job placement services under this section including participation by the department as a partner with WorkSource and with the private vocational rehabilitation community to refer workers to these vocational professionals for job search and job placement assistance. As a partner, the department must place vocational professional full-time employees at selected WorkSource locations who will work with employers to market the benefits of on-the-job training programs and preferred worker financial incentives as described in ((~~RCW 51.32.095(4)~~)) subsection (4) of this section. For the purposes of this subsection, "WorkSource" means the established state system that administers the federal workforce investment act of 1998.

(10) The benefits in this section((,)) and RCW 51.32.099((,)) and 51.32.096 must be provided for the injured workers of self-insured employers. Self-insurers must report both benefits provided and benefits denied in the manner prescribed by the department by rule adopted under chapter 34.05 RCW. The director may, in his or her sole discretion and upon his or her own initiative or at any time that a dispute arises under this section((,)) or RCW 51.32.099((,)) or 51.32.096, promptly make such inquiries as circumstances require and take such other action as he or she considers will properly determine the matter and protect the rights of the parties.

(11) Except as otherwise provided, the benefits provided for in this section((,)) and RCW 51.32.099((,)) and 51.32.096 are available to any otherwise eligible worker regardless of the date of industrial injury. However, claims may not be reopened solely for vocational rehabilitation purposes.

Sec. 9. RCW 51.36.010 and 2013 c 19 s 48 are each amended to read as follows:

(1) The legislature finds that high quality medical treatment and adherence to occupational health best practices can prevent disability and reduce loss of family income for workers, and lower labor and insurance costs for employers. Injured workers deserve high quality medical care in accordance with current health care best practices. To this end, the department shall establish minimum standards for providers who treat workers from both state fund and self-insured employers. The department shall establish a health care provider network to treat injured workers, and shall accept providers into the network who meet those minimum standards. The department shall convene an advisory group made up

of representatives from or designees of the workers' compensation advisory committee and the industrial insurance medical and chiropractic advisory committees to consider and advise the department related to implementation of this section, including development of best practices treatment guidelines for providers in the network. The department shall also seek the input of various health care provider groups and associations concerning the network's implementation. Network providers must be required to follow the department's evidence-based coverage decisions and treatment guidelines, policies, and must be expected to follow other national treatment guidelines appropriate for their patient. The department, in collaboration with the advisory group, shall also establish additional best practice standards for providers to qualify for a second tier within the network, based on demonstrated use of occupational health best practices. This second tier is separate from and in addition to the centers for occupational health and education established under subsection (5) of this section.

(2)(a) Upon the occurrence of any injury to a worker entitled to compensation under the provisions of this title, he or she shall receive proper and necessary medical and surgical services at the hands of a physician ((~~or~~)), osteopathic physician, chiropractor, naturopath, podiatric physician, optometrist, dentist, licensed advanced registered nurse practitioner, physician assistant, or psychologist in claims solely for mental health conditions, of his or her own choice, if conveniently located, except as provided in (b) of this subsection, and proper and necessary hospital care and services during the period of his or her disability from such injury.

(b) Once the provider network is established in the worker's geographic area, an injured worker may receive care from a nonnetwork provider only for an initial office or emergency room visit. However, the department or self-insurer may limit reimbursement to the department's standard fee for the services. The provider must comply with all applicable billing policies and must accept the department's fee schedule as payment in full.

(c) The department, in collaboration with the advisory group, shall adopt policies for the development, credentialing, accreditation, and continued oversight of a network of health care providers approved to treat injured workers. Health care providers shall apply to the network by completing the department's provider application which shall have the force of a contract with the department to treat injured workers. The advisory group shall recommend minimum network standards for the department to approve a provider's application, to remove a provider from the network, or to require peer review such as, but not limited to:

(i) Current malpractice insurance coverage exceeding a dollar amount threshold, number, or seriousness of malpractice suits over a specific time frame;

(ii) Previous malpractice judgments or settlements that do not exceed a dollar amount threshold recommended by the advisory group, or a specific number or seriousness of malpractice suits over a specific time frame;

(iii) No licensing or disciplinary action in any jurisdiction or loss of treating or admitting privileges by any board, commission, agency, public or private health care payer, or hospital;

(iv) For some specialties such as surgeons, privileges in at least one hospital;

(v) Whether the provider has been credentialed by another health plan that follows national quality assurance guidelines; and

(vi) Alternative criteria for providers that are not credentialed by another health plan.

The department shall develop alternative criteria for providers that are not credentialed by another health plan or as needed to address access to care concerns in certain regions.

(d) Network provider contracts will automatically renew at the end of the contract period unless the department provides written notice of changes in contract provisions or the department or provider provides written notice of contract termination. The industrial insurance medical advisory committee shall develop criteria for removal of a provider from the network to be presented to the department and advisory group for consideration in the development of contract terms.

(e) In order to monitor quality of care and assure efficient management of the provider network, the department shall establish additional criteria and terms for network participation including, but not limited to, requiring compliance with administrative and billing policies.

(f) The advisory group shall recommend best practices standards to the department to use in determining second tier network providers. The department shall develop and implement financial and nonfinancial incentives for network providers who qualify for the second tier. The department is authorized to certify and decertify second tier providers.

(3) The department shall work with self-insurers and the department utilization review provider to implement utilization review for the self-insured community to ensure consistent quality, cost-effective care for all injured workers and employers, and to reduce administrative burden for providers.

(4) The department for state fund claims shall pay, in accordance with the department's fee schedule, for any alleged injury for which a worker files a claim, any initial prescription drugs provided in relation to that initial visit, without regard to whether the worker's claim for benefits is allowed. In all accepted claims, treatment shall be limited in point of duration as follows:

In the case of permanent partial disability, not to extend beyond the date when compensation shall be awarded him or her, except when the worker returned to work before permanent partial disability award is made, in such case not to extend beyond the time when monthly allowances to him or her shall cease; in case of temporary disability not to extend beyond the time when monthly allowances to him or her shall cease: PROVIDED, That after any injured worker has returned to his or her work his or her medical and surgical treatment may be continued if, and so long as, such continuation is deemed necessary by the supervisor of industrial insurance to be necessary to his or her more complete recovery; in case of a permanent total disability not to extend beyond the date on which a lump sum settlement is made with him or her or he or she is placed upon the permanent pension roll: PROVIDED, HOWEVER, That the supervisor of industrial insurance, solely in his or her discretion, may authorize continued medical and surgical treatment for conditions previously accepted by the department when such medical and surgical treatment is deemed necessary by the supervisor of industrial insurance to protect such worker's life or provide for the administration of medical and therapeutic measures including

payment of prescription medications, but not including those controlled substances currently scheduled by the pharmacy quality assurance commission as Schedule I, II, III, or IV substances under chapter 69.50 RCW, which are necessary to alleviate continuing pain which results from the industrial injury. In order to authorize such continued treatment the written order of the supervisor of industrial insurance issued in advance of the continuation shall be necessary.

The supervisor of industrial insurance, the supervisor's designee, or a self-insurer, in his or her sole discretion, may authorize inoculation or other immunological treatment in cases in which a work-related activity has resulted in probable exposure of the worker to a potential infectious occupational disease. Authorization of such treatment does not bind the department or self-insurer in any adjudication of a claim by the same worker or the worker's beneficiary for an occupational disease.

(5)(a) The legislature finds that the department and its business and labor partners have collaborated in establishing centers for occupational health and education to promote best practices and prevent preventable disability by focusing additional provider-based resources during the first twelve weeks following an injury. The centers for occupational health and education represent innovative accountable care systems in an early stage of development consistent with national health care reform efforts. Many Washington workers do not yet have access to these innovative health care delivery models.

(b) To expand evidence-based occupational health best practices, the department shall establish additional centers for occupational health and education, with the goal of extending access to at least fifty percent of injured and ill workers by December 2013 and to all injured workers by December 2015. The department shall also develop additional best practices and incentives that span the entire period of recovery, not only the first twelve weeks.

(c) The department shall certify and decertify centers for occupational health and education based on criteria including institutional leadership and geographic areas covered by the center for occupational health and education, occupational health leadership and education, mix of participating health care providers necessary to address the anticipated needs of injured workers, health services coordination to deliver occupational health best practices, indicators to measure the success of the center for occupational health and education, and agreement that the center's providers shall, if feasible, treat certain injured workers if referred by the department or a self-insurer.

(d) Health care delivery organizations may apply to the department for certification as a center for occupational health and education. These may include, but are not limited to, hospitals and affiliated clinics and providers, multispecialty clinics, health maintenance organizations, and organized systems of network physicians.

(e) The centers for occupational health and education shall implement benchmark quality indicators of occupational health best practices for individual providers, developed in collaboration with the department. A center for occupational health and education shall remove individual providers who do not consistently meet these quality benchmarks.

(f) The department shall develop and implement financial and nonfinancial incentives for center for occupational health and education providers that are based on progressive and measurable gains in occupational health best practices,

and that are applicable throughout the duration of an injured or ill worker's episode of care.

(g) The department shall develop electronic methods of tracking evidence-based quality measures to identify and improve outcomes for injured workers at risk of developing prolonged disability. In addition, these methods must be used to provide systematic feedback to physicians regarding quality of care, to conduct appropriate objective evaluation of progress in the centers for occupational health and education, and to allow efficient coordination of services.

(6) If a provider fails to meet the minimum network standards established in subsection (2) of this section, the department is authorized to remove the provider from the network or take other appropriate action regarding a provider's participation. The department may also require remedial steps as a condition for a provider to participate in the network. The department, with input from the advisory group, shall establish waiting periods that may be imposed before a provider who has been denied or removed from the network may reapply.

(7) The department may permanently remove a provider from the network or take other appropriate action when the provider exhibits a pattern of conduct of low quality care that exposes patients to risk of physical or psychiatric harm or death. Patterns that qualify as risk of harm include, but are not limited to, poor health care outcomes evidenced by increased, chronic, or prolonged pain or decreased function due to treatments that have not been shown to be curative, safe, or effective or for which it has been shown that the risks of harm exceed the benefits that can be reasonably expected based on peer-reviewed opinion.

(8) The department may not remove a health care provider from the network for an isolated instance of poor health and recovery outcomes due to treatment by the provider.

(9) When the department terminates a provider from the network, the department or self-insurer shall assist an injured worker currently under the provider's care in identifying a new network provider or providers from whom the worker can select an attending or treating provider. In such a case, the department or self-insurer shall notify the injured worker that he or she must choose a new attending or treating provider.

(10) The department may adopt rules related to this section.

(11) The department shall report to the workers' compensation advisory committee and to the appropriate committees of the legislature on each December 1st, beginning in 2012 and ending in 2016, on the implementation of the provider network and expansion of the centers for occupational health and education. The reports must include a summary of actions taken, progress toward long-term goals, outcomes of key initiatives, access to care issues, results of disputes or controversies related to new provisions, and whether any changes are needed to further improve the occupational health best practices care of injured workers.

Sec. 10. RCW 51.36.022 and 2005 c 411 s 1 are each amended to read as follows:

(1) The legislature finds that there is a need to clarify the process and standards under which the department provides residence modification assistance to workers who have sustained catastrophic injury.

(2) The director shall adopt rules that take effect no later than nine months after July 24, 2005, to establish guidelines and processes for residence modification pursuant to RCW 51.36.020(7).

(3) In developing rules under this section, the director shall consult with interested persons, including persons with expertise in the rehabilitation of ((~~catastrophically disabled~~)) individuals with catastrophic disabilities and modifications for adaptive housing.

(4) These rules must address at least the following:

(a) The process for a catastrophically injured worker to access the residence modification benefits provided by RCW 51.36.020; and

(b) How the department may address the needs and preferences of the individual worker on a case-by-case basis taking into account information provided by the injured worker. For purposes of determining the needs and requirements of the worker under RCW 51.36.020, including whether a modification is medically necessary, the department must consider all available information regarding the medical condition and physical restrictions of the injured worker, including the opinion of the worker's attending ((~~health services~~)) provider.

(5) The rules should be based upon nationally accepted guidelines and publications addressing adaptive residential housing. The department must consider the guidelines established by the United States department of veterans affairs in their publication entitled "Handbook for Design: Specially Adapted Housing," and the recommendations published in "The Accessible Housing Design File" by Barrier Free Environments, Inc.

(6) In developing rules under this section, the director shall consult with other persons with an interest in improving standards for adaptive housing.

(7) The director shall report by December 2007 to the appropriate committees of the legislature on the rules adopted under this section.

Sec. 11. RCW 51.36.060 and 2004 c 65 s 12 are each amended to read as follows:

((~~Physicians or licensed advanced registered nurse practitioners examining or attending injured workers~~)) Attending providers under this title shall comply with rules and regulations adopted by the director, and shall make such reports as may be requested by the department or self-insurer upon the condition or treatment of any such worker, or upon any other matters concerning such workers in their care. Except under RCW 49.17.210 and 49.17.250, all medical information in the possession or control of any person and relevant to the particular injury in the opinion of the department pertaining to any worker whose injury or occupational disease is the basis of a claim under this title shall be made available at any stage of the proceedings to the employer, the claimant's representative, and the department upon request, and no person shall incur any legal liability by reason of releasing such information.

Sec. 12. RCW 51.36.070 and 2020 c 213 s 3 are each amended to read as follows:

(1)(a) Whenever the department or the self-insurer deems it necessary in order to (i) make a decision regarding claim allowance or reopening, (ii) resolve a new medical issue, an appeal, or case progress, or (iii) evaluate the worker's permanent disability or work restriction, a worker shall submit to examination

by a physician or physicians selected by the department, with the rendition of a report to the person ordering the examination, the attending ((~~physician~~)) provider, and the injured worker.

(b) The examination must be at a place reasonably convenient to the injured worker, or alternatively utilize telemedicine if the department determines telemedicine is appropriate for the examination. For purposes of this subsection, "reasonably convenient" means at a place where residents in the injured worker's community would normally travel to seek medical care for the same specialty as the examiner. The department must address in rule how to accommodate the injured worker if no approved medical examiner in the specialty needed is available in that community.

(2) The department or self-insurer shall provide the physician performing an examination with all relevant medical records from the worker's claim file. The director, in his or her discretion, may charge the cost of such examination or examinations to the self-insurer or to the medical aid fund as the case may be. The cost of said examination shall include payment to the worker of reasonable expenses connected therewith.

(3) For purposes of this section, "examination" means a physical or mental examination by a medical care provider licensed to practice medicine, osteopathy, podiatry, chiropractic, dentistry, or psychiatry at the request of the department or self-insured employer or by order of the board of industrial insurance appeals.

(4) This section applies prospectively to all claims regardless of the date of injury.

NEW SECTION. **Sec. 13.** This act takes effect July 1, 2025, and applies retroactively.

Passed by the House March 7, 2023.
Passed by the Senate April 12, 2023.
Approved by the Governor April 25, 2023.
Filed in Office of Secretary of State April 26, 2023.

CHAPTER 172

[Substitute House Bill 1213]

DISPOSABLE WIPE LABELING

AN ACT Relating to compliance with labeling requirements for wipes; amending RCW 70A.525.901 and 70A.525.020; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 70A.525.901 and 2020 c 121 s 9 are each amended to read as follows:

((~~For~~)) (1) If a covered product in commerce in Washington as of July 1, 2023, is required to be registered by the United States environmental protection agency under the federal insecticide, fungicide, and rodenticide act (7 U.S.C. Sec. 136 et seq. (1996))((~~, chapter 121, Laws of 2020 applies beginning July 1, 2023~~)) or the department of agriculture under RCW 15.58.050, the covered entity for the covered product must, to the extent permitted under the federal insecticide, fungicide, and rodenticide act, submit a label compliant with the labeling requirements of RCW 70A.525.020 by July 1, 2023, to the United

States environmental protection agency. Upon approval of the label by the United States environmental protection agency, the covered entity must submit a label to the department of agriculture for approval consistent with the requirements of chapter 15.58 RCW. Except as provided in subsections (3) and (4) of this section, covered products manufactured by a covered entity must comply with the requirements of RCW 70A.525.020, beginning with whichever covered products are manufactured later:

(a) Covered products manufactured on or after a date 24 months after a covered entity receives label approval from the United States environmental protection agency; or

(b) Covered products manufactured on or after July 1, 2025.

(2) For covered products newly introduced into commerce in Washington after July 1, 2023, the covered entity must begin complying with the requirements of RCW 70A.525.020 on July 1, 2025, except as provided in subsections (3) and (4)(a) of this section.

(3) If the United States environmental protection agency or the department of agriculture do not approve a product label that otherwise complies with the labeling requirements of RCW 70A.525.020, the covered entity must use a label that meets as many of the requirements of RCW 70A.525.020 as the department and the United States environmental protection agency have approved.

(4)(a) A covered entity may include on a covered product words or phrases in addition to those required under this chapter if the words or phrases are necessary for a label to obtain approval from the United States environmental protection agency or the department of agriculture.

(b) A covered entity specified in subsection (1) of this section that has not yet received approval of a label for a covered product from the department of agriculture 24 months after approval of the label by the United States environmental protection agency is in compliance with the requirements of this chapter if the covered entity, upon request, provides evidence of the timely submission of the label to the department of agriculture under subsection (1) of this section.

Sec. 2. RCW 70A.525.020 and 2020 c 121 s 3 are each amended to read as follows:

(1) A covered entity must clearly and conspicuously label a package containing a covered product as "do not flush" as follows:

(((~~(1)~~))) (a) Use the "do not flush" symbol, or a gender equivalent thereof, described in the INDA/EDANA code of practice 2 (COP2, as published in "Guidelines for Assessing the Flushability of Disposable Nonwoven Products," Edition 4, May 2018, by INDA/EDANA);

(((~~(2)~~))) (b) Place the symbol on the principal display panel in a prominent and reasonably visible location on the package which, in the case of packaging intended to dispense individual wipes, is permanently affixed in a location that is visible to a person each time a wipe is dispensed from the package;

(((~~(3)~~))) (c) Size the symbol to cover at least two percent of the surface area of the principal display panel on which the symbol is presented;

(((~~(4)~~))) (d) Ensure the symbol is not obscured by packaging seams, folds, or other package design elements;

(((~~(5)~~))) (e) Ensure the symbol has sufficiently high contrast with the immediate background of the packaging to render it likely to be read by the

ordinary individual under customary conditions of purchase and use. In the case of a printed symbol, "high contrast" is defined as follows:

(((~~(a)~~))) (i) Provided with either a light symbol on a dark background or a dark symbol on a light background; and

(((~~(b)~~))) (ii) A minimum level or percentage of contrast between the symbol artwork and the background of at least ((~~seventy~~)) 70 percent. Contrast in percent is determined by:

(((~~(i)~~))) (A) Contrast = (B1 - B2) x 100 / B1; and

(((~~(ii)~~))) (B) Where B1 = light reflectance value of the lighter area and B2 = light reflectance value of the darker area; and

(((~~(6)~~))) (2) Beginning January 1, 2023, no package ((~~or box~~)) containing a covered product manufactured on or before July 1, 2022, may be offered for distribution or sale in the state unless the covered product is labeled consistent with the requirements of subsection (1) of this section.

NEW SECTION. **Sec. 3.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 4.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House February 6, 2023.
Passed by the Senate April 11, 2023.
Approved by the Governor April 25, 2023.
Filed in Office of Secretary of State April 26, 2023.

CHAPTER 173

[House Bill 1230]

SCHOOLS—PUBLIC HEALTH INFORMATION

AN ACT Relating to requiring school districts and other public education entities to make information from the department of health about substance use trends, overdose symptoms and response, and the secure storage of prescription drugs, over-the-counter medications, and firearms and ammunition, available through their websites and other communication resources; adding a new section to chapter 28A.320 RCW; adding a new section to chapter 28A.310 RCW; adding a new section to chapter 70.54 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature recognizes that access to information regarding drug overdoses and the secure storage of medication and firearms can help decrease the risks of related injuries and deaths by aiding parents and students in their efforts to keep children and each other safe. The legislature also recognizes that significant increases in ongoing student behavioral health crises, including increased suicide ideation and completion, requires policymakers to promptly and thoughtfully consider reasonable ways of limiting children's access to lethal means.

(2) The legislature finds data involving the unintentional ingestion of medications by children highly concerning. Nationally, in 2017 and 2018 there was an average of 47,500 emergency room visits annually for children under the age of six who had accidentally, and without supervision, ingested medicine.

This number equates to approximately 130 emergency room visits per day or more than five per hour. During this same two-year period, 23 children under age six were hospitalized each day for an accidental unsupervised ingestion of medicine. Furthermore, the data for 2017 indicates that 84 percent of children receiving emergency treatment for an accidental unsupervised ingestion of medicine were between one and three years old.

(3) Although the unintentional ingestion of medications can be fatal for children, regrettably, that threat is only one of many drug-related concerns plaguing families and children. The decades-long opioid crisis, for example, has had profound impacts in our state. According to data from the department of health, in 2018 opioids were involved in two-thirds of the drug overdoses in Washington state and in the nation. Also, the 2018 Washington healthy youth survey indicated that about 2,500 12th grade students had tried heroin at least once, and about 3,500 12th grade students had used pain killers to get high in any given month.

(4) The legislature also finds that the need for safe secure storage information is evidenced by sobering data. For example, researchers at the University of Washington found in 2018 that 63 percent of Washington firearm owners did not practice secure firearm storage; and nationally, about 50,000 children each year are brought to emergency rooms after unintentionally ingesting a medicine when a caregiver was not watching.

(5) Researchers estimate that one in three American families with children have at least one firearm in the home. About 75 percent of children aged five through 14 with firearm-owning parents know where the firearms are stored, and more than 20 percent of the children have handled a firearm in the home without their parents' knowledge.

(6) The legislature recognizes that the impacts of firearms on the health and safety of children is profound. For example, an analysis of school related gun violence found that more than 85 percent of school shooters obtained the firearm at their home or from a friend or relative. Researchers have also found that more than 75 percent of firearms used in youth suicide attempts and unintentional injuries were stored in the residence of the victim, a relative, or a friend. Additionally, the two age groups most likely to be both shooters and victims were youth aged 14 to 17, and preschoolers aged five and younger. Furthermore, firearms are the leading cause of death in suicides and homicides by youth and young adults in Washington state.

(7) The legislature finds that the challenges of the ongoing COVID-19 pandemic have exacerbated troubling trends with children and firearms. For example, the number of unintentional shooting deaths by children in the United States from the beginning of the COVID-19 pandemic, March of 2020 through December of 2020, was 31 percent higher than the same period one year earlier. Nationally during this same period, there were 314 incidents of unintentional shootings by children resulting in 128 gun deaths and 199 nonfatal injuries.

(8) The legislature, therefore, in recognition of the critical and ongoing need for life-saving information for items that can accidentally or intentionally inflict great harm on children and families, intends to require that school districts and other public education entities use their websites and other communication resources to provide accurate and easily accessed information about substance

use trends, overdose symptoms and response, and the secure storage of prescription drugs, over-the-counter medications, and firearms and ammunition.

NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.320 RCW to read as follows:

(1) Within existing resources, each school district that maintains a website must post a prominent link on their homepage, and the homepage for each school within the district, to information from the department of health provided in accordance with section 4 of this act that addresses substance use trends, overdose symptoms and response, and the secure storage of prescription drugs, over-the-counter medications, and firearms and ammunition.

(2) Each school district, for the purpose of informing students, families, and other interested persons about available health and safety resources, must also make the information from the department of health accessible through other internet-based communications, such as social media accounts used by the district and through other digital and nondigital communications of the district. Postings required by this subsection may be made multiple times annually and no less frequently than twice each school year.

(3) This section governs school operation and management under RCW 28A.710.040 and 28A.715.020, and applies to charter schools established under chapter 28A.710 RCW and state-tribal compact schools established under chapter 28A.715 RCW.

NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.310 RCW to read as follows:

(1) Within existing resources, each educational service district that maintains a website must post a prominent link on their homepage to information from the department of health provided in accordance with section 4 of this act that addresses substance use trends, overdose symptoms and response, and the secure storage of prescription drugs, over-the-counter medications, and firearms and ammunition.

(2) Each educational service district, for the purpose of informing students, families, and other interested persons about available health and safety resources, must also make the information from the department of health accessible through other internet-based communications, such as social media accounts used by the educational service district and through other digital and nondigital communications of the educational service district. Postings required by this subsection must be made multiple times annually and no less frequently than quarterly.

NEW SECTION. **Sec. 4.** A new section is added to chapter 70.54 RCW to read as follows:

The department of health shall post and periodically revise on its website information about substance use trends, overdose symptoms and response, and the secure storage of prescription drugs, over-the-counter medications, and firearms and ammunition. The information must be provided or otherwise made accessible to school districts, charter public schools, state-tribal compact schools, and educational service districts, and must be formatted for the needs of public school students and families as provided in sections 2 and 3 of this act. The information also must be in the form of a template that can be revised as necessary and that:

(1) Includes website addresses and telephone numbers of one or more public health agencies with applicable information;

(2) May include website addresses and telephone numbers of one or more private organizations with applicable information;

(3) Can be replicated for other health and safety topics that are germane to public schools;

(4) Can be easily and readily shared with schools and districts in accordance with the requirements of section 2(2) of this act; and

(5) Includes format and content options that schools and school districts may use to reflect regional, demographic, and cultural differences.

Passed by the House February 28, 2023.
Passed by the Senate April 11, 2023.
Approved by the Governor April 25, 2023.
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CHAPTER 174

[House Bill 1232]

COLLEGE BOUND SCHOLARSHIP PROGRAM—VARIOUS PROVISIONS

AN ACT Relating to enhancing the college bound scholarship program by increasing opportunities for students to attend community and technical colleges; amending RCW 28B.118.010 and 28B.118.090; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that the college bound scholarship is an important financial aid program that prompts students to begin to have a college going mindset early in high school. The data indicates that since the first cohort of college bound scholarship students, there were just under 5,000 students who were college bound scholarship applicants but had grade point averages below 2.0. Despite not meeting the requirements to receive the college bound scholarship, these students still went on to pursue postsecondary education. The legislature recognizes that community and technical colleges do not require a certain grade point average to enroll, but that strong academic performance is still a requirement for direct admittance to a four-year institution of higher education from high school. Since the legislature believes that many students who may not have performed well academically in high school can still thrive at a community and technical college, it is the legislature's intent to keep students' dreams of higher education alive by allowing students without a "C" average to still qualify for college bound scholarships.

Sec. 2. RCW 28B.118.010 and 2021 c 283 s 2 are each amended to read as follows:

The office of student financial assistance shall design the Washington college bound scholarship program in accordance with this section and in alignment with the Washington college grant program in chapter 28B.92 RCW unless otherwise provided in this section. The right of an eligible student to receive a college bound scholarship vest upon enrollment in the program that is earned by meeting the requirements of this section as it exists at the time of the student's enrollment under subsection (2) of this section.

(1) "Eligible students" are those students who:

(a) Qualify for free or reduced-price lunches.

(i) If a student qualifies in the seventh or eighth grade, the student remains eligible even if the student does not receive free or reduced-price lunches thereafter.

(ii) Beginning in the 2019-20 academic year, if a student qualifies for free or reduced-price lunches in the ninth grade and was previously ineligible during the seventh or eighth grade while he or she was a student in Washington, the student is eligible for the college bound scholarship program;

(b) Are dependent pursuant to chapter 13.34 RCW and:

(i) In grade seven through ((~~twelve~~)) 12; or

(ii) Are between the ages of ((~~eighteen~~)) 18 and ((~~twenty-one~~)) 21 and have not graduated from high school; or

(c) Were dependent pursuant to chapter 13.34 RCW and were adopted between the ages of ((~~fourteen~~)) 14 and ((~~eighteen~~)) 18 with a negotiated adoption agreement that includes continued eligibility for the Washington state college bound scholarship program pursuant to RCW 74.13A.025.

(2)(a) Every eligible student shall be automatically enrolled by the office of student financial assistance, with no action necessary by the student, student's family, or student's guardians.

(b) Eligible students and the students' parents or guardians shall be notified of the student's enrollment in the Washington college bound scholarship program and the requirements for award of the scholarship by the office of student financial assistance. To the maximum extent practicable, an eligible student must acknowledge enrollment in the college bound scholarship program and receipt of the requirements for award of the scholarship.

(c) The office of the superintendent of public instruction and the department of children, youth, and families must provide the office of student financial assistance with a list of eligible students when requested. The office of student financial assistance must determine the most effective methods, including timing and frequency, to notify eligible students of enrollment in the Washington college bound scholarship program. The office of student financial assistance must take reasonable steps to ensure that eligible students acknowledge enrollment in the college bound scholarship program and receipt of the requirements for award of the scholarship. The office of student financial assistance shall also make available to every school district information, brochures, and posters to increase awareness and to enable school districts to notify eligible students directly or through school teachers, counselors, or school activities.

(3) Except as provided in subsection (4) of this section, an eligible student must:

(a)(i) Graduate ((~~with at least a "C" average~~)) from a public high school under RCW 28A.150.010, an approved private high school under chapter 28A.195 RCW in Washington, or have received home-based instruction under chapter 28A.200 RCW; and

(ii) For eligible students enrolling in a postsecondary educational institution for the first time beginning with the 2023-24 academic year, graduate with at least a "C" average for consideration of direct admission to a public or private four-year institution of higher education;

(b) Have no felony convictions;

(c) Be a resident student as defined in RCW 28B.15.012(2) (a) through (e); and

(d) Have a family income that does not exceed 65 percent of the state median family income at the time of high school graduation.

(4)(a) An eligible student who is a resident student under RCW 28B.15.012(2)(e) must also provide the institution, as defined in RCW 28B.15.012, an affidavit indicating that the individual will file an application to become a permanent resident at the earliest opportunity the individual is eligible to do so and a willingness to engage in any other activities necessary to acquire citizenship, including but not limited to citizenship or civics review courses.

(b) For eligible students as defined in subsection (1)(b) and (c) of this section, a student may also meet the requirement in subsection (3)(a) of this section by receiving a high school equivalency certificate as provided in RCW 28B.50.536.

((~~(c) For a student who does not meet the "C" average requirement, and who completes fewer than two quarters in the running start program, under chapter 28A.600 RCW, the student's first quarter of running start course grades must be excluded from the student's overall grade point average for purposes of determining if the requirement in subsection (3)(a) of this section is met.~~))

(5)(a) For students attending two or four-year institutions of higher education as defined in RCW 28B.10.016, the value of the award shall be (i) the difference between the student's tuition and required fees, less the value of any state-funded grant, scholarship, or waiver assistance the student receives; (ii) plus five hundred dollars for books and materials.

(b) For students attending private four-year institutions of higher education in Washington, the award amount shall be the representative average of awards granted to students in public research universities in Washington or the representative average of awards granted to students in public research universities in Washington in the 2014-15 academic year, whichever is greater.

(c) For students attending private vocational schools in Washington, the award amount shall be the representative average of awards granted to students in public community and technical colleges in Washington or the representative average of awards granted to students in public community and technical colleges in Washington in the 2014-15 academic year, whichever is greater.

(6) Eligible students must enroll no later than the fall term, as defined by the institution of higher education, one academic year following high school graduation. Eligible students may receive no more than four full-time years' worth of scholarship awards within a five-year period.

(7) Institutions of higher education shall award the student all need-based and merit-based financial aid for which the student would otherwise qualify. The Washington college bound scholarship is intended to replace unmet need, loans, and, at the student's option, work-study award before any other grants or scholarships are reduced.

(8) The first scholarships shall be awarded to students graduating in 2012.

(9) The eligible student has a property right in the award, but the state of Washington retains legal ownership of tuition units awarded as scholarships under this chapter until the tuition units are redeemed. These tuition units shall remain separately held from any tuition units owned under chapter 28B.95 RCW by a Washington college bound scholarship recipient.

(10) The scholarship award must be used within five years of receipt. Any unused scholarship tuition units revert to the Washington college bound scholarship account.

(11) Should the recipient terminate his or her enrollment for any reason during the academic year, the unused portion of the scholarship tuition units shall revert to the Washington college bound scholarship account.

Sec. 3. RCW 28B.118.090 and 2021 c 283 s 4 are each amended to read as follows:

(1) Beginning January 1, 2015, and at a minimum every year thereafter, the student achievement council and all institutions of higher education eligible to participate in the college bound scholarship program shall ensure data needed to analyze and evaluate the effectiveness of the college bound scholarship program is promptly transmitted to the education data center created in RCW 43.41.400 so that it is available and easily accessible. The data to be reported should include but not be limited to:

(a) The number of enrolled students for the college bound scholarship program in seventh, eighth, or ninth grade;

(b) The number of college bound scholarship students who graduate from high school;

(c) The number of college bound scholarship students who enroll in postsecondary education, including how many enroll who graduated high school with less than a "C" average;

(d) Persistence and completion rates of college bound scholarship recipients disaggregated by institutions of higher education and by high school grade point average;

(e) College bound scholarship recipient grade point averages;

(f) The number of college bound scholarship recipients who did not remain eligible and reasons for ineligibility;

(g) College bound scholarship program costs; and

(h) Impacts to the Washington college grant program.

(2) Beginning May 12, 2015, and at a minimum every December 1st thereafter, the student achievement council shall submit student unit record data for the college bound scholarship program applicants and recipients to the education data center.

(3) Beginning July 1, 2024, and annually thereafter, the education data center shall submit to the student achievement council the data listed in this section that is submitted by institutions of higher education for the purposes of completing the annual legislative report required by this section.

(4) Beginning November 1, 2024, and annually thereafter, the student achievement council shall submit a report to the higher education committees of the legislature in accordance with RCW 43.01.036 on the data listed in this section.

Passed by the House February 27, 2023.

Passed by the Senate April 11, 2023.

Approved by the Governor April 25, 2023.

Filed in Office of Secretary of State April 26, 2023.

CHAPTER 175

[Substitute House Bill 1247]

MUSIC THERAPISTS

AN ACT Relating to licensure for music therapists; amending RCW 18.120.020, 18.130.040, and 18.130.040; adding a new chapter to Title 18 RCW; providing an effective date; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature intends to:

(1) Recognize that music therapy affects public health, safety, and welfare and that the practice of music therapy should be subject to regulation;

(2) Assure the highest degree of professional conduct on the part of music therapists;

(3) Guarantee the availability of music therapy services provided by a qualified professional to persons in need of those services; and

(4) Protect the public from the practice of music therapy by unqualified individuals.

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

(1) "Advisory committee" means the music therapy advisory committee.

(2) "Commission" means the Washington medical commission.

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

(4) "Music therapist" means a person licensed to practice music therapy pursuant to this chapter.

(5)(a) "Music therapy" means the clinical and evidence-based use of music interventions to accomplish individualized goals of music therapy clients by employing strategies and tools that include but are not limited to:

(i) Accepting referrals for music therapy services from health care or educational professionals, family members, or caregivers;

(ii) Conducting music therapy assessments of a client to determine appropriate music therapy services;

(iii) Developing and implementing individualized music therapy treatment plans that identify goals, objectives, and strategies of music therapy that are appropriate for clients;

(iv) Using music therapy techniques such as improvisation, performance, receptive music listening, song writing, lyric discussion, guided imagery with music, learning through music, and movement to music;

(v) During the provision of music therapy services to a client, collaborating, as applicable, with the client's treatment team, including physicians, psychologists, occupational therapists, licensed clinical social workers, or other mental health professionals. During the provision of music therapy services to a client with a communication disorder, the licensed professional music therapist shall collaborate and discuss the music therapy treatment plan with the client's audiologist, occupational therapist, or speech-language pathologist. When providing educational or health care services, a music therapist may not replace the services provided by an audiologist, occupational therapist, or speech-language pathologist;

(vi) Evaluating a client's response to music therapy techniques and the individualized music therapy treatment plan;

(vii) Any necessary modification of the client's individualized music therapy treatment plan;

(viii) Any necessary collaboration with other health care professionals treating a client;

(ix) Minimizing barriers that may restrict a client's ability to receive or fully benefit from music therapy services; and

(x) Developing a plan for determining when the provision of music therapy services is no longer needed.

(b) "Music therapy" does not include the screening, diagnosis, or assessment of any physical, mental, or communication disorder.

(6) "Secretary" means the secretary of health or his or her designee.

NEW SECTION. **Sec. 3.** (1) A music therapy advisory committee is created within the department. The committee consists of five members as follows: Three who practice as music therapists in Washington state, one member who is a licensed health care provider but not a music therapist, and one member who is a consumer.

(2) The secretary shall appoint all members of the advisory committee. All members must be familiar with the practice of music therapy and able to provide the department with expertise and assistance in carrying out the following duties pursuant to this chapter:

(a) Developing regulations; and

(b) Establishing standards of practice and professional responsibility for music therapists.

(3) Members shall serve a term of four years without compensation.

(4) Members may serve consecutive terms at the direction of the department. Any vacancy shall be filled in the same manner as regular appointments.

(5) The advisory committee shall meet at least once per year or as otherwise called by the department.

(6) The department shall consult with the advisory committee for issues related to music therapy licensure and renewal. The department shall provide analysis of disciplinary actions taken, appeals, denials, or revocations of licenses at least once per year.

NEW SECTION. **Sec. 4.** The department shall issue a license to practice music therapy to an applicant who meets the following requirements:

(1) Is at least 18 years of age;

(2) Is in good standing in any other states where the applicant is licensed or certified to practice music therapy;

(3) Submits sufficient documentation as determined by the department in rule and includes the following requirements:

(a) Completion of an academic and clinical training program for music therapy approved by the secretary, following consultation with the advisory committee and consideration of standards adopted by national certification boards for music therapy; and

(b) Successful completion of an examination administered or approved by the secretary, following consultation with the advisory committee and consideration of standards adopted by national certification boards for music therapy;

(4) Pays a fee determined by the secretary as provided in section 7 of this act.

(5) Meets any other qualifications as determined by the department in rule.

NEW SECTION. **Sec. 5.** Every license issued under this chapter must be renewed biennially. Each licensee is responsible for timely renewal of the licensee's license. To renew a license, a licensee must follow the rules adopted under RCW 43.70.280.

NEW SECTION. **Sec. 6.** (1) Beginning January 1, 2025, a person may not practice music therapy or use any title or designation of "music therapist" that indicates that the person is authorized to practice music therapy unless the person is licensed under this act.

(2) Nothing in this chapter may be construed to prohibit or restrict the practices, services, or activities of the following:

(a) Any person licensed, certified, or regulated under the laws of Washington state in another profession or occupation or personnel supervised by a licensed professional in this state performing work, including the use of music, incidental to the practice of the licensed, certified, or regulated profession or occupation, if the person does not represent that the person is a music therapist;

(b) Any person whose training and national certification attests to the individual's preparation and ability to practice the certified profession or occupation, if the person does not represent that the person is a music therapist; and

(c) Any use and practice of music therapy as an integral part of a program of study for students enrolled in a music therapy education program.

(3) Unless authorized to practice speech-language pathology, music therapists may not evaluate, examine, instruct, or counsel on speech, language, communication, or swallowing disorders or conditions. An individual licensed as a professional music therapist may not represent to the public that the individual is authorized to treat a communication disorder. This does not prohibit an individual licensed as a professional music therapist from representing to the public that the individual may work with clients who have a communication disorder and address communication skills.

(4) Before providing music therapy services to a client for an identified clinical or developmental need, it is recommended that the licensee review the client's diagnosis, treatment needs, and treatment.

(5) Before providing music therapy services to a student for an identified educational need, the licensee shall review the student's diagnosis, treatment needs, and treatment plan with the individualized family service plan's team or the individualized education program's team.

NEW SECTION. **Sec. 7.** In addition to any other authority provided by law, the secretary has the authority to:

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

(2) Establish all licensing, examination, and renewal fees in accordance with RCW 43.70.250 and 43.70.280;

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

(4) Issue licenses to applicants who have met the education, training, and examination requirements for licensure and to deny a license to applicants who do not meet the requirements;

(5) Hire clerical, administrative, investigative, and other staff as needed to implement this chapter, and hire individuals licensed under this chapter to serve as examiners for any practical examinations;

(6) Administer and supervise the grading and taking of examinations for applicants for licensure;

(7) Determine which states have credentialing requirements substantially equivalent to those of this state, and issue licenses to individuals credentialed in those states without examinations;

(8) Implement and administer a program for consumer education in consultation with the committee;

(9) Adopt rules implementing a continuing education program in consultation with the committee;

(10) Maintain the official record of all applicants and licensees; and

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

NEW SECTION. **Sec. 8.** (1) The department shall establish and adopt rules governing the administration of this chapter in accordance with chapter 34.05 RCW.

(2) The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of a license, and the discipline of persons licensed under this chapter. The secretary is the disciplining authority under this chapter.

Sec. 9. RCW 18.120.020 and 2020 c 80 s 22 are each amended to read as follows:

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

(1) "Applicant group" includes any health professional group or organization, any individual, or any other interested party which proposes that any health professional group not presently regulated be regulated or which proposes to substantially increase the scope of practice of the profession.

(2) "Certificate" and "certification" mean a voluntary process by which a statutory regulatory entity grants recognition to an individual who (a) has met certain prerequisite qualifications specified by that regulatory entity, and (b) may assume or use "certified" in the title or designation to perform prescribed health professional tasks.

(3) "Grandfather clause" means a provision in a regulatory statute applicable to practitioners actively engaged in the regulated health profession prior to the effective date of the regulatory statute which exempts the practitioners from meeting the prerequisite qualifications set forth in the regulatory statute to perform prescribed occupational tasks.

(4) "Health professions" means and includes the following health and health-related licensed or regulated professions and occupations: Podiatric medicine and surgery under chapter 18.22 RCW; chiropractic under chapter 18.25 RCW; dental hygiene under chapter 18.29 RCW; dentistry under chapter 18.32 RCW; denturism under chapter 18.30 RCW; dental anesthesia assistants

under chapter 18.350 RCW; dispensing opticians under chapter 18.34 RCW; hearing instruments under chapter 18.35 RCW; naturopaths under chapter 18.36A RCW; embalming and funeral directing under chapter 18.39 RCW; midwifery under chapter 18.50 RCW; nursing home administration under chapter 18.52 RCW; optometry under chapters 18.53 and 18.54 RCW; ocularists under chapter 18.55 RCW; osteopathic medicine and surgery under chapter 18.57 RCW; pharmacy under chapters 18.64 and 18.64A RCW; medicine under chapters 18.71 and 18.71A RCW; emergency medicine under chapter 18.73 RCW; physical therapy under chapter 18.74 RCW; practical nurses under chapter 18.79 RCW; psychologists under chapter 18.83 RCW; registered nurses under chapter 18.79 RCW; occupational therapists licensed under chapter 18.59 RCW; respiratory care practitioners licensed under chapter 18.89 RCW; veterinarians and veterinary technicians under chapter 18.92 RCW; massage therapists under chapter 18.108 RCW; acupuncturists or acupuncture and Eastern medicine practitioners licensed under chapter 18.06 RCW; persons registered under chapter 18.19 RCW; persons licensed as mental health counselors, marriage and family therapists, and social workers under chapter 18.225 RCW; dietitians and nutritionists certified by chapter 18.138 RCW; radiologic technicians under chapter 18.84 RCW; nursing assistants registered or certified under chapter 18.88A RCW; reflexologists certified under chapter 18.108 RCW; medical assistants-certified, medical assistants-hemodialysis technician, medical assistants-phlebotomist, forensic phlebotomist, and medical assistants-registered certified and registered under chapter 18.360 RCW; ((~~and~~)) licensed behavior analysts, licensed assistant behavior analysts, and certified behavior technicians under chapter 18.380 RCW; and music therapists licensed under chapter 18.--- RCW (the new chapter created in section 12 of this act).

(5) "Inspection" means the periodic examination of practitioners by a state agency in order to ascertain whether the practitioners' occupation is being carried out in a fashion consistent with the public health, safety, and welfare.

(6) "Legislative committees of reference" means the standing legislative committees designated by the respective rules committees of the senate and house of representatives to consider proposed legislation to regulate health professions not previously regulated.

(7) "License," "licensing," and "licensure" mean permission to engage in a health profession which would otherwise be unlawful in the state in the absence of the permission. A license is granted to those individuals who meet prerequisite qualifications to perform prescribed health professional tasks and for the use of a particular title.

(8) "Practitioner" means an individual who (a) has achieved knowledge and skill by practice, and (b) is actively engaged in a specified health profession.

(9) "Professional license" means an individual, nontransferable authorization to carry on a health activity based on qualifications which include: (a) Graduation from an accredited or approved program, and (b) acceptable performance on a qualifying examination or series of examinations.

(10) "Public member" means an individual who is not, and never was, a member of the health profession being regulated or the spouse of a member, or an individual who does not have and never has had a material financial interest in either the rendering of the health professional service being regulated or an activity directly related to the profession being regulated.

(11) "Registration" means the formal notification which, prior to rendering services, a practitioner shall submit to a state agency setting forth the name and address of the practitioner; the location, nature and operation of the health activity to be practiced; and, if required by the regulatory entity, a description of the service to be provided.

(12) "Regulatory entity" means any board, commission, agency, division, or other unit or subunit of state government which regulates one or more professions, occupations, industries, businesses, or other endeavors in this state.

(13) "State agency" includes every state office, department, board, commission, regulatory entity, and agency of the state, and, where provided by law, programs and activities involving less than the full responsibility of a state agency.

Sec. 10. RCW 18.130.040 and 2021 c 179 s 7 are each amended to read as follows:

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

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

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

(ii) Midwives licensed under chapter 18.50 RCW;

(iii) Ocularists licensed under chapter 18.55 RCW;

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

(v) Dental hygienists licensed under chapter 18.29 RCW;

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

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

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

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

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

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

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

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

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

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

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

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

(xviii) Surgical technologists registered under chapter 18.215 RCW;

(xix) Recreational therapists under chapter 18.230 RCW;

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

(xxi) Athletic trainers licensed under chapter 18.250 RCW;

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

(xxiii) Genetic counselors licensed under chapter 18.290 RCW;

(xxiv) Reflexologists certified under chapter 18.108 RCW;

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

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

(xxvii) Music therapists licensed under chapter 18.--- RCW (the new chapter created in section 12 of this act).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 11. RCW 18.130.040 and 2022 c 217 s 5 are each amended to read as follows:

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

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

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

(ii) Midwives licensed under chapter 18.50 RCW;

(iii) Ocularists licensed under chapter 18.55 RCW;

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

(v) Dental hygienists licensed under chapter 18.29 RCW;

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

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

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

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

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

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

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

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

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

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

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

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

(xviii) Surgical technologists registered under chapter 18.215 RCW;

(xix) Recreational therapists under chapter 18.230 RCW;

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

(xxi) Athletic trainers licensed under chapter 18.250 RCW;

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

(xxiii) Genetic counselors licensed under chapter 18.290 RCW;

(xxiv) Reflexologists certified under chapter 18.108 RCW;

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

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

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

(xxviii) Music therapists licensed under chapter 18.--- RCW (the new chapter created in section 12 of this act).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NEW SECTION. **Sec. 12.** Sections 1 through 8 of this act constitute a new chapter in Title 18 RCW.

NEW SECTION. **Sec. 13.** Section 10 of this act expires October 1, 2023.

NEW SECTION. **Sec. 14.** Section 11 of this act takes effect October 1, 2023.

Passed by the House February 27, 2023.
Passed by the Senate April 12, 2023.
Approved by the Governor April 25, 2023.
Filed in Office of Secretary of State April 26, 2023.

CHAPTER 176

[Substitute House Bill 1289]

OPPORTUNITY SCHOLARSHIP AND RURAL JOBS PROGRAMS—ADMINISTRATION

AN ACT Relating to program administration for the Washington state opportunity scholarship program; amending RCW 28B.145.010, 28B.145.020, 28B.145.040, 28B.145.100, and 28B.145.120; repealing RCW 28B.145.130; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 28B.145.010 and 2022 c 211 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) "Board" means the opportunity scholarship board.

(2) "Council" means the student achievement council.

(3) "Eligible advanced degree program" means a health professional degree program beyond the baccalaureate level and includes graduate and professional degree programs.

(4) "Eligible county" has the same meaning as "rural county" as defined in RCW 82.14.370 and also includes any county that shares a common border with Canada and has a population of over 125,000.

(5) "Eligible education programs" means high employer demand and other programs of study as determined by the board.

(6) "Eligible expenses" means reasonable expenses associated with the costs of acquiring an education such as tuition, books, equipment, fees, room and board, and other expenses as determined by the program administrator in consultation with the council and the state board for community and technical colleges.

(7) "Eligible school district" means a school district of the second class as identified in RCW 28A.300.065(2).

(8)(a) "Eligible student" means a resident student who:

(i)(A) Received his or her high school diploma or high school equivalency certificate as provided in RCW 28B.50.536 in Washington and has been accepted at a four-year institution of higher education into an eligible education program leading to a baccalaureate degree;

(B) Received his or her high school diploma or high school equivalency certificate as provided in RCW 28B.50.536 in Washington and will attend a two-year institution of higher education and intends to transfer to an eligible education program at a four-year institution of higher education;

(C) Received his or her high school diploma or equivalent and has been accepted at an institution of higher education into a professional-technical certificate or degree program in an eligible education program; or

(D) Has been accepted at an institution of higher education into an eligible advanced degree program that leads to credentials in health professions;

(ii) Declares an intention to obtain a professional-technical certificate, professional-technical degree, baccalaureate degree, or an advanced degree; and

(iii) Has a family income at or below 125 percent of the state median family income at the time the student applies for an opportunity scholarship. For the advanced degree program, family income may be greater than 125 percent if the eligible student can demonstrate financial need through other factors such as a history of prior household income, income loss caused by entering the advanced degree program, level of student debt at application and annually thereafter, or other factors determined by the program.

(b) To remain eligible for scholarship funds under the opportunity scholarship program the student must meet satisfactory academic progress toward completion of an eligible program as determined by the office of student financial assistance in the Washington college grant program under chapter 28B.92 RCW.

(9) "Gift aid" means financial aid received from the federal Pell grant, the Washington college grant program in chapter 28B.92 RCW, the college bound scholarship program in chapter 28B.118 RCW, the opportunity grant program in chapter 28B.50 RCW, or any other state grant, scholarship, or worker retraining program that provides funds for educational purposes with no obligation of repayment. "Gift aid" does not include student loans, work-study programs, the basic food employment and training program administered by the department of social and health services, or other employment assistance programs that provide job readiness opportunities and support beyond the costs of tuition, books, and fees.

(10) "High employer demand program of study" has the same meaning as provided in RCW 28B.50.030.

(11) "Participant" means an eligible student who has received a scholarship under the opportunity scholarship program.

(12) "Private sources," "private funds," "private contributions," or "private sector contributions" means donations from private organizations, corporations, federally recognized Indian tribes, municipalities, counties, and other sources, but excludes state dollars.

(13) "Professional-technical certificate" means a program as approved by the state board for community and technical colleges under RCW 28B.50.090(7)(c), that is offered by an institution of higher education or an eligible registered apprenticeship program under chapter 28B.92 RCW.

(14) "Professional-technical degree" means a program as approved by the state board for community and technical colleges under RCW 28B.50.090(7)(c), that is offered by an institution of higher education or an eligible registered apprenticeship program under chapter 28B.92 RCW.

(15) "Program administrator" means ((~~a~~)) one or more private nonprofit corporations registered under Title 24 RCW and qualified as a tax-exempt entity under section 501(c)(3) of the federal internal revenue code.

(16) "Resident student" means a student meeting the requirements under RCW 28B.92.200(5)(c) as defined in the Washington college grant program.

(17) "Rural jobs program" means the rural county high employer demand jobs program created in this chapter.

Sec. 2. RCW 28B.145.020 and 2019 c 406 s 64 are each amended to read as follows:

(1) The opportunity scholarship board is created. The board consists of eleven members:

(a) Six members appointed by the governor. For three of the six appointments, the governor shall consider names from a list provided by the president of the senate and the speaker of the house of representatives; and

(b) Five foundation or business and industry representatives appointed by the governor from among the state's most productive industries such as aerospace, manufacturing, health care, information technology, engineering, agriculture, and others, as well as philanthropy. The foundation or business and industry representatives shall be selected from among nominations provided by the private sector donors to the opportunity scholarship and opportunity expansion programs. However, the governor may request, and the private sector donors shall provide, an additional list or lists from which the governor shall select these representatives.

(2) Board members shall hold their offices for a term of four years from the first day of September and until their successors are appointed. No more than the terms of two members may expire simultaneously on the last day of August in any one year.

(3) The members of the board shall elect one of the business and industry representatives to serve as chair.

(4) Seven members of the board constitute a quorum for the transaction of business. In case of a vacancy, or when an appointment is made after the date of expiration of the term, the governor or the president of the senate or the speaker of the house of representatives, depending upon which made the initial appointment to that position, shall fill the vacancy for the remainder of the term of the board member whose office has become vacant or expired.

(5) The board shall be staffed by ((~~a~~)) one or more program administrators, under contract with the board and the council. The board may cause one or more tax-exempt nonprofit corporations to be created, organized, and operated exclusively to perform some or all of the program administrator duties under this act. The board and council may contract directly with any such nonprofit corporation.

(6) The purpose of the board is to provide oversight and guidance for the opportunity expansion program, the opportunity scholarship program, and the rural jobs program, in light of established legislative priorities and to fulfill the duties and responsibilities under this chapter, including but not limited to determining eligible education programs and eligible advanced degree programs for purposes of the opportunity scholarship program and rural jobs program. In determining eligible advanced degree programs, the board shall consider advanced degree programs that lead to credentials in health professions that

include, but are not limited to, primary care, dental care, behavioral health, and public health. Duties, exercised jointly with the program administrator, include soliciting funds and setting annual fund-raising goals.

(7) The board may report to the governor and the appropriate committees of the legislature with recommendations as to:

(a) Whether some or all of the scholarships should be changed to conditional scholarships that must be repaid in the event the participant does not complete the eligible education program;

(b) A source or sources of funds for the opportunity expansion program in addition to the voluntary contributions of the high-technology research and development tax credit under RCW 82.32.800; and

(c) Whether the program should include a loan repayment or low-interest or no-interest loan component for the advanced degree portion of the program.

Sec. 3. RCW 28B.145.040 and 2019 c 406 s 66 are each amended to read as follows:

(1) The opportunity scholarship program is established.

(2) The purpose of this scholarship program is to provide scholarships that will help low and middle-income Washington residents earn professional-technical certificates, professional-technical degrees, baccalaureate degrees in high employer demand and other programs of study, and advanced degrees in health professions, and encourage them to remain in the state to work. The program must be designed for students starting professional-technical certificate or degree programs, students starting at two-year institutions of higher education and intending to transfer to four-year institutions of higher education, students starting at four-year institutions of higher education, and students enrolled in eligible advanced degree programs.

(3) The opportunity scholarship board shall determine which programs of study, including but not limited to high employer demand programs, are eligible for purposes of the opportunity scholarship. For eligible advanced degree programs, the board shall limit scholarships to eligible students enrolling in programs that lead to credentials in health professions.

(4)(a) The source of funds for the program shall be a combination of private grants and contributions and state matching funds. A state match may be earned under this section for private contributions made on or after June 6, 2011.

(b) ((~~The state match must be based on donations and pledges received as~~)) (i) The state must provide an annual appropriation for a state match, on an equal dollar basis, not to exceed $50,000,000 per fiscal year.

(ii) Appropriations for the state match in the biennial omnibus operating appropriations act must be based on estimated donations and pledges for those fiscal years as reported by the board to the office of financial management as of the date each official state caseload forecast is submitted by the caseload forecast council to the legislative fiscal committees, as provided under RCW 43.88C.020.

(iii) Annually in the supplemental omnibus operating appropriations act, the state match must be adjusted to donations received and estimated pledges committed for the current fiscal biennium as reported by the board to the office of financial management as of the date each official state caseload forecast is submitted by the caseload forecast council to the legislative fiscal committees, as provided under RCW 43.88C.020. Additionally, the state match for the current fiscal year must be adjusted to reflect the excess or deficit between donations

and pledges actually received in the prior fiscal year and the state match provided in the prior fiscal year.

(iv) The purpose of this subsection (4)(b) is to ensure the predictable treatment of the program in the budget process by clarifying the calculation process of the state match required by this section and ensuring the program is budgeted at maintenance level.

((~~(c) A state match, up to a maximum of fifty million dollars annually, shall be provided beginning the later of January 1, 2014, or January 1st next following the end of the fiscal year in which collections of state retail sales and use tax, state business and occupation tax, and state public utility tax exceed, by ten percent the amounts collected from these tax resources in the fiscal year that ended June 30, 2008, as determined by the department of revenue.~~))

Sec. 4. RCW 28B.145.100 and 2022 c 211 s 3 are each amended to read as follows:

(1)(a) The rural county high employer demand jobs program is created to meet the workforce needs of business and industry in rural counties by assisting students in earning certificates, associate degrees, or other industry-recognized credentials necessary for employment in high employer demand fields.

(b) Subject to the requirements of this section, the rural jobs program provides selected students scholarship funds and support services, as determined by the board, to help students meet their eligible expenses when they enroll in a community or technical college program that prepares them for high employer demand fields.

(c) The source of funds for the rural jobs program shall be a combination of private donations, grants, and contributions and state matching funds.

(d) The state ((~~match must be based on donations and pledges received~~)) must provide an annual appropriation for the state match, on an equal dollar basis, not to exceed $1,000,000 each fiscal biennium.

(i) Appropriations for the state match in the biennial omnibus operating appropriations act must be based on estimated donations and pledges for those fiscal years as reported by the board to the office of financial management as of the date each official state caseload forecast is submitted by the caseload forecast council to the legislative fiscal committees, as provided under RCW 43.88C.020.

(ii) Annually in the supplemental omnibus operating appropriations act, the state match must be adjusted to donations received and estimated pledges committed for the current fiscal biennium as reported by the board to the office of financial management as of the date each official state caseload forecast is submitted by the caseload forecast council to the legislative fiscal committees, as provided under RCW 43.88C.020. Additionally, the state match for the current fiscal year must be adjusted to reflect the excess or deficit between donations and pledges actually received in the prior fiscal year and the state match provided in the prior fiscal year.

(iii) The purpose of this subsection (1)(d) is to ensure the predictable treatment of the program in the budget process by clarifying the calculation process of the state match required by this section and to ensure the program is budgeted at maintenance level.

(2) The program administrator has the duties and responsibilities provided under this section, including but not limited to:

(a) Publicize the rural jobs program and conducting outreach to eligible counties;

(b) In consultation with the state board for community and technical colleges, any interested community or technical college located in an eligible county, and the county's workforce development council, identify high employer demand fields within the eligible counties. When identifying high employer demand fields, the board must consider:

(i) County-specific employer demand reports issued by the employment security department or the list of statewide high-demand programs for secondary career and technical education established under RCW 28A.700.020; and

(ii) The ability and capacity of the community and technical college to meet the needs of qualifying students and industry in the eligible county;

(c) Develop and implement an application, selection, and notification process for awarding rural jobs program scholarship funds. In making determinations on scholarship recipients, the board shall use county-specific employer high-demand data;

(d) Determine the annual scholarship fund amounts to be awarded to selected students;

(e) Distribute funds to selected students;

(f) Notify institutions of higher education of the rural jobs program recipients who will attend their institutions of higher education and inform them of the scholarship fund amounts and terms of the awards; and

(g) Establish and manage an account as provided under RCW 28B.145.110 to receive donations, grants, contributions from private sources, and state matching funds, and from which to disburse scholarship funds to selected students.

(3) To be eligible for scholarship funds under the rural jobs program, a student must:

(a) Either:

(i) Be a resident of an eligible county;

(ii) Have attended and graduated from a school in an eligible school district; or

(iii) Be enrolled in either a community or technical college established under chapter 28B.50 RCW located in an eligible county or participating in an eligible registered apprenticeship program under chapter 28B.92 RCW in an eligible county;

(b) Be a resident student as defined in the Washington college grant program in RCW 28B.92.200(5)(c);

(c) Be in a certificate, degree, or other industry-recognized credential or training program that has been identified by the board as a program that prepares students for a high employer demand field;

(d) Have a family income that does not exceed seventy percent of the state median family income adjusted for family size; and

(e) Demonstrate financial need according to the free application for federal student aid or the Washington application for state financial aid.

(4) To remain eligible for scholarship funds under the rural jobs program, the student must meet satisfactory academic progress toward completion of an eligible program as established by the program. Rural jobs program eligibility

may not extend beyond five years or 125 percent of the published length of the program in which the student is enrolled or the credit or clock-hour equivalent.

(5) A scholarship award under the rural jobs program may not result in a reduction of any gift aid. Nothing in this section creates any right or entitlement.

Sec. 5. RCW 28B.145.120 and 2018 c 254 s 6 are each amended to read as follows:

(1) The rural jobs program match transfer account is created in the custody of the state treasurer as a nonappropriated account to be used solely and exclusively for the rural jobs program created in RCW 28B.145.100. The purpose of the rural jobs program match transfer account is to provide state matching funds for the rural jobs program.

(2) Revenues to the rural jobs program match transfer account shall consist of appropriations by the legislature into the rural jobs program match transfer account.

(3) No expenditures from the rural jobs program match transfer account may be made except upon receipt of proof, by the executive director of the council from the program administrator, of private contributions to the rural jobs program. Expenditures, in the form of matching funds, may not exceed the total amount of private contributions.

(4) Only the executive director of the council or the executive director's designee may authorize expenditures from the rural jobs program match transfer account. Such authorization must be made as soon as practicable following receipt of proof as required under this section.

(5)(a) The council shall enter into an appropriate agreement with the program administrator to demonstrate exchange of consideration for the matching funds.

(b) Once moneys in the rural jobs program match transfer account are subject to an agreement under this subsection and are deposited in the student support pathways account, the state acts in a fiduciary rather than ownership capacity with regard to those assets. Assets in the student support pathways account are not considered state money, common cash, or revenue to the state.

((~~(6) The state match must not exceed one million dollars in a single fiscal biennium and must be based on donations and pledges received by the rural jobs program as of the date each official state caseload forecast is submitted by the caseload forecast council to the legislative fiscal committees, as provided under RCW 43.88C.020. Nothing in this section expands or modifies the responsibilities of the caseload forecast council.~~))

NEW SECTION. **Sec. 6.** RCW 28B.145.130 (Rural jobs program—State matching funds) and 2018 c 254 s 7 are each repealed.

NEW SECTION. **Sec. 7.** 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.

Passed by the House April 13, 2023.
Passed by the Senate April 5, 2023.
Approved by the Governor April 25, 2023.
Filed in Office of Secretary of State April 26, 2023.

CHAPTER 177

[House Bill 1345]

INCARCERATED INDIVIDUALS—CONTRIBUTION TO COSTS OF PRIVILEGES

AN ACT Relating to contribution to costs of privileges by incarcerated individuals; and amending RCW 72.09.470.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 72.09.470 and 1995 1st sp.s. c 19 s 7 are each amended to read as follows:

To the greatest extent practical, all ((~~inmates~~)) incarcerated individuals shall contribute to the cost of privileges. The department may require incarcerated individuals to contribute to the cost of specific privileges designated by the department in accordance with standards that the department shall develop and adopt to ensure that incarcerated individuals contribute a portion of the department's costs directly associated with providing designated privileges. The department shall establish standards by which ((~~inmates~~)) incarcerated individuals shall contribute a portion of the department's capital costs of providing privileges, including television cable access, ((~~extended family visitation,~~)) weight lifting, and other recreational sports equipment and supplies. The standards shall also require ((~~inmates~~)) incarcerated individuals to contribute a ((~~significant~~)) portion of the department's operating costs directly associated with providing privileges, including staff and supplies. ((~~Inmate contributions~~)) Contributions by incarcerated individuals may be in the form of individual user fees assessed against an ((~~inmate's~~)) incarcerated individual's institution account, deductions from an ((~~inmate's~~)) incarcerated individual's gross wages or gratuities, or ((~~inmates'~~)) collective contributions by incarcerated individuals to the institutional welfare/betterment fund. The department shall make every effort to maximize incarcerated individual ((~~inmate~~)) contributions to payment for privileges. The department shall not limit ((~~inmates'~~)) incarcerated individuals' financial support for privileges to contributions from the institutional welfare/betterment fund. The standards shall consider the assets available to the ((~~inmates~~)) incarcerated individuals, the cost of administering compliance with the contribution requirements, and shall promote a responsible work ethic.

Passed by the House April 14, 2023.
Passed by the Senate April 7, 2023.
Approved by the Governor April 25, 2023.
Filed in Office of Secretary of State April 26, 2023.

CHAPTER 178

[House Bill 1552]

URBAN AGRICULTURAL OPPORTUNITIES AND BARRIERS—STUDY

AN ACT Relating to directing the state conservation commission to conduct a study of urban agricultural opportunities and barriers in the state; creating new sections; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) Urban agriculture provides critical economic development, food access, and educational opportunities in local communities.

Community gardens give people access to grow their own food and urban farms create jobs, provide fresh food, and expose future farmers to career development. Innovative farming techniques are being developed to grow more food on less space. However, challenges including access to land, water, and expertise limit urban agriculture's potential. Encouraging urban agriculture requires an understanding of the barriers to success.

(2) The Washington state food policy forum found in its December 2022 report, "*Land Use Policy Solutions to Stem Agricultural Land Loss*," that just as cities establish parks and open space to maintain livable communities, opportunities to grow food also enhance the livability of urban places. A review of the opportunities and barriers to urban agriculture will support local governments as they plan for the future of their communities.

(3) In the December 2022 report, the Washington state food policy forum reached the following consensus recommendation: Increase access to fresh food by supporting urban, peri-urban, indoor, and other emerging agricultural production, directing the office of farmland preservation to conduct a stakeholder review of the opportunities and barriers.

NEW SECTION. **Sec. 2.** (1) The state conservation commission shall conduct a study of urban agricultural opportunities and barriers in the state.

(2) The study must examine, at a minimum:

(a) How urban agriculture can provide critical economic development, food access, and education opportunities in local communities;

(b) Opportunities within urban agriculture, such as community gardens and urban farms, to give people access to grow their own food and create jobs, provide fresh food, and expose future farmers to career development;

(c) How urban agriculture can also support local objectives relating to green infrastructure, low-impact development, and climate resilience;

(d) Challenges, including access to land, water, and expertise, that limit the potential of urban agriculture;

(e) Successes and lessons learned from program and policy implementation by local governments and conservation districts; and

(f) Identification of potential pilot programs and requisite funding needs.

(3) In conducting the study, the state conservation commission shall collaborate with the following:

(a) The department of agriculture;

(b) The University of Washington;

(c) Washington State University;

(d) The food policy forum; and

(e) Other stakeholders as deemed appropriate by the state conservation commission.

(4) The state conservation commission must submit the results of the study to the committees of the legislature with jurisdiction over agricultural issues by June 30, 2024.

(5) This section expires December 31, 2024.

Passed by the House February 28, 2023.

Passed by the Senate April 11, 2023.

Approved by the Governor April 25, 2023.

Filed in Office of Secretary of State April 26, 2023.

CHAPTER 179

[House Bill 1575]

CULTURAL ACCESS PROGRAMS SALES AND USE TAX—MODIFICATION

AN ACT Relating to modifying the sales and use tax for cultural access programs by allowing the tax to be imposed by a councilmanic or commission authority and defining timelines and priorities for action; amending RCW 82.14.525; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 82.14.525 and 2015 3rd sp.s. c 24 s 402 are each amended to read as follows:

(1) The legislative authority of a county ((~~or a city~~)) may impose a sales and use tax of up to one-tenth of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax, for the purposes authorized under chapter 36.160 RCW. The legislative authority of the county ((~~or city~~)) may impose the sales and use tax by ordinance and ((~~must~~)) may condition its imposition on the specific authorization of a majority of the voters voting on a proposition submitted at a special or general election held after June 30, 2016. The ordinance, or ordinance and ballot proposition, may provide for the tax to apply for a period of up to seven consecutive years.

(2) If a county has not imposed the sales and use tax under this section prior to December 31, 2024, a city within that county may impose a sales and use tax of up to one-tenth of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax, for the purposes authorized under chapter 36.160 RCW. The legislative authority of the city may impose the sales and use tax by ordinance and may condition its imposition on the specific authorization of a majority of the voters voting on a proposition submitted at a special or general election. The ordinance, or ordinance and ballot proposition, may provide for the tax to apply for a period of up to seven consecutive years.

(3) The tax authorized in this section is in addition to any other taxes authorized by law and must be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event.

(((~~3~~))) (4) The legislative authority of a county or city may reimpose a tax imposed under this section for one or more additional periods of up to seven consecutive years. The legislative authority of the county or city may ((~~only~~)) reimpose the sales and use tax by ordinance and may condition its reimposition on the ((~~prior~~)) specific authorization of a majority of the voters voting on a proposition submitted at a special or general election.

(((~~4~~))) (5) A county and a city within that county may not concurrently impose the tax authorized in this section.

(6) Moneys collected under this section may only be used for the purposes set forth in RCW 36.160.110.

(((~~5~~))) (7) The department must perform the collection of taxes under this section on behalf of a county or city at no cost to the county or city, and the state treasurer must distribute those taxes as available on a monthly basis to the county or city or, upon the direction of the county or city, to its treasurer or a

fiscal agent, paying agent, or trustee for obligations issued or incurred by the program.

(((~~(6)~~))) (8) The definitions in RCW 36.160.020 apply to this section.

NEW SECTION. **Sec. 2.** This act applies prospectively only and not retroactively. It applies only to taxes imposed under RCW 82.14.525 that are imposed on or after the effective date of this section.

Passed by the House March 3, 2023.
Passed by the Senate April 11, 2023.
Approved by the Governor April 25, 2023.
Filed in Office of Secretary of State April 26, 2023.

CHAPTER 180

[Engrossed Substitute House Bill 1600]

SEALED JUVENILE RECORDS—USE FOR FIREARM BACKGROUND CHECKS

AN ACT Relating to providing access to sealed juvenile records for firearm purposes; amending RCW 13.50.260; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 13.50.260 and 2020 c 184 s 1 are each amended to read as follows:

(1)(a) The court shall hold regular sealing hearings. During these regular sealing hearings, the court shall administratively seal an individual's juvenile record pursuant to the requirements of this subsection. Although the juvenile record shall be sealed, the social file may be available to any juvenile justice or care agency when an investigation or case involving the juvenile subject of the records is being prosecuted by the juvenile justice or care agency or when the juvenile justice or care agency is assigned the responsibility of supervising the juvenile. The juvenile respondent's presence is not required at any administrative sealing hearing.

(b) At the disposition hearing of a juvenile offender, the court shall schedule an administrative sealing hearing to take place during the first regularly scheduled sealing hearing after the latest of the following events that apply:

(i) The respondent's eighteenth birthday;

(ii) Anticipated end date of a respondent's probation, if ordered;

(iii) Anticipated release from confinement at the juvenile rehabilitation administration, or the completion of parole, if the respondent is transferred to the juvenile rehabilitation administration.

(c) The court shall not schedule an administrative sealing hearing at the disposition and no administrative sealing hearing shall occur if one of the offenses for which the court has entered a disposition is at the time of commission of the offense:

(i) A most serious offense, as defined in RCW 9.94A.030;

(ii) A sex offense under chapter 9A.44 RCW; or

(iii) A drug offense, as defined in RCW 9.94A.030.

(d) At the time of the scheduled administrative sealing hearing, the court shall enter a written order sealing the respondent's juvenile court record pursuant to this subsection if the court finds by a preponderance of the evidence that the respondent is no longer on supervision for the case being considered for sealing

and has paid the full amount of restitution owing to the individual victim named in the restitution order, excluding restitution owed to any public or private entity providing insurance coverage or health care coverage. In determining whether the respondent is on supervision or owes restitution, the court shall take judicial notice of court records, including records of the county clerk, and, if necessary, sworn testimony from a representative of the juvenile department.

(e) At the time of the administrative sealing hearing, if the court finds the respondent remains on supervision for the case being considered for sealing, then the court shall continue the administrative sealing hearing to a date within thirty days following the anticipated end date of the respondent's supervision. At the next administrative sealing hearing, the court shall again determine the respondent's eligibility for sealing his or her juvenile court record pursuant to (d) of this subsection, and, if necessary, continue the hearing again as provided in this subsection.

(f)(i) During the administrative sealing hearing, if the court finds the respondent is no longer on supervision for the case being considered for sealing, but the respondent has not paid the full amount of restitution owing to the individual victim named in the restitution order, excluding any public or private entity providing insurance coverage or health care coverage, the court shall deny sealing the juvenile court record in a written order that: (A) Specifies the amount of restitution that remains unpaid to the original victim, excluding any public or private entity providing insurance coverage or health care coverage; and (B) provides direction to the respondent on how to pursue the sealing of records associated with this cause of action.

(ii) Within five business days of the entry of the written order denying the request to seal a juvenile court record, the juvenile court department staff shall notify the respondent of the denial by providing a copy of the order of denial to the respondent in person or in writing mailed to the respondent's last known address in the department of licensing database or the respondent's address provided to the court, whichever is more recent.

(iii) At any time following entry of the written order denying the request to seal a juvenile court record, the respondent may contact the juvenile court department, provide proof of payment of the remaining unpaid restitution to the original victim, excluding any public or private entity providing insurance coverage or health care coverage, and request an administrative sealing hearing. Upon verification of the satisfaction of the restitution payment, the juvenile court department staff shall circulate for signature an order sealing the file, and file the signed order with the clerk's office, who shall seal the record.

(iv) The administrative office of the courts must ensure that sealed juvenile records remain private in case of an appeal and are either not posted or redacted from any clerks papers that are posted online with the appellate record, as well as taking any other prudent steps necessary to avoid exposing sealed juvenile records to the public.

(2) Except for dismissal of a deferred disposition under RCW 13.40.127, the court shall enter a written order immediately sealing the official juvenile court record upon the acquittal after a fact finding or upon the dismissal of charges with prejudice, subject to the state's right, if any, to appeal the dismissal.

(3) If a juvenile court record has not already been sealed pursuant to this section, in any case in which information has been filed pursuant to RCW

13.40.100 or a complaint has been filed with the prosecutor and referred for diversion pursuant to RCW 13.40.070, the person who is the subject of the information or complaint may file a motion with the court to have the court vacate its order and findings, if any; resolve the status of any debts owing; and, subject to RCW 13.50.050(13), order the sealing of the official juvenile court record, the social file, and records of the court and of any other agency in the case, with the exception of identifying information under RCW 13.50.050(13).

(4)(a) The court shall grant any motion to seal records for class A offenses made pursuant to subsection (3) of this section if:

(i) Since the last date of release from confinement, including full-time residential treatment, if any, or entry of disposition, the person has spent five consecutive years in the community without committing any offense or crime that subsequently results in an adjudication or conviction;

(ii) No proceeding is pending against the moving party seeking the conviction of a juvenile offense or a criminal offense;

(iii) No proceeding is pending seeking the formation of a diversion agreement with that person;

(iv) The person is no longer required to register as a sex offender under RCW 9A.44.130 or has been relieved of the duty to register under RCW 9A.44.143 if the person was convicted of a sex offense;

(v) The person has not been convicted of rape in the first degree, rape in the second degree, or indecent liberties that was actually committed with forcible compulsion; and

(vi) The person has paid the full amount of restitution owing to the individual victim named in the restitution order, excluding restitution owed to any public or private entity providing insurance coverage or health care coverage.

(b) The court shall grant any motion to seal records for class B, class C, gross misdemeanor, and misdemeanor offenses and diversions made under subsection (3) of this section if:

(i) Since the date of last release from confinement, including full-time residential treatment, if any, entry of disposition, or completion of the diversion agreement, the person has spent two consecutive years in the community without being convicted of any offense or crime;

(ii) No proceeding is pending against the moving party seeking the conviction of a juvenile offense or a criminal offense;

(iii) No proceeding is pending seeking the formation of a diversion agreement with that person;

(iv) The person is no longer required to register as a sex offender under RCW 9A.44.130 or has been relieved of the duty to register under RCW 9A.44.143 if the person was convicted of a sex offense; and

(v) The person has paid the full amount of restitution owing to the individual victim named in the restitution order, excluding restitution owed to any insurance provider authorized under Title 48 RCW.

(c) Notwithstanding the requirements in (a) or (b) of this subsection, the court shall grant any motion to seal records of any deferred disposition vacated under RCW 13.40.127(9) prior to June 7, 2012, if restitution has been paid and the person is eighteen years of age or older at the time of the motion.

(5) The person making a motion pursuant to subsection (3) of this section shall give reasonable notice of the motion to the prosecution and to any person or agency whose records are sought to be sealed.

(6)(a) If the court enters a written order sealing the juvenile court record pursuant to this section, it shall, subject to RCW 13.50.050(13), order sealed the official juvenile court record, the social file, and other records relating to the case as are named in the order. Thereafter, the proceedings in the case shall be treated as if they never occurred, and the subject of the records may reply accordingly to any inquiry about the events, records of which are sealed. Any agency shall reply to any inquiry concerning confidential or sealed records that records are confidential, and no information can be given about the existence or nonexistence of records concerning an individual.

(b) In the event the subject of the juvenile records receives a full and unconditional pardon, the proceedings in the matter upon which the pardon has been granted shall be treated as if they never occurred, and the subject of the records may reply accordingly to any inquiry about the events upon which the pardon was received. Any agency shall reply to any inquiry concerning the records pertaining to the events for which the subject received a pardon that records are confidential, and no information can be given about the existence or nonexistence of records concerning an individual.

(c) Effective July 1, 2019, the department of licensing may release information related to records the court has ordered sealed only to the extent necessary to comply with federal law and regulation.

(7) Inspection of the files and records included in the order to seal may thereafter be permitted only by order of the court upon motion made by the person who is the subject of the information or complaint, except as otherwise provided in RCW 13.50.010(8) and 13.50.050(13).

(8)(a) Any adjudication of a juvenile offense or a crime subsequent to sealing has the effect of nullifying a sealing order; however, the court may order the juvenile court record resealed upon disposition of the subsequent matter if the case meets the sealing criteria under this section and the court record has not previously been resealed.

(b) Any charging of an adult felony subsequent to the sealing has the effect of nullifying the sealing order.

(c) The administrative office of the courts shall ensure that the superior court judicial information system provides prosecutors access to information on the existence of sealed juvenile records.

(d) The Washington state patrol shall ensure that the Washington state identification system provides Washington state criminal justice agencies access to sealed juvenile records information.

(e) The Washington state patrol shall ensure that the Washington state identification system provides non-Washington criminal justice agencies access to sealed juvenile records only for the purposes of processing and purchasing firearms, concealed pistol licenses, or alien firearms licenses, or releasing of firearms from evidence.

(f) Non-Washington criminal justice agencies that access sealed juvenile records pursuant to this subsection shall not knowingly disseminate the accessed records or any information derived therefrom to any third party. Dissemination of such records or such information shall subject the disseminating agency to the

jurisdiction of the courts of Washington and a civil penalty of not more than $1,000 per violation.

(9) If the juvenile court record has been sealed pursuant to this section, the record of an employee is not admissible in an action for liability against the employer based on the former juvenile offender's conduct to show that the employer knew or should have known of the juvenile record of the employee. The record may be admissible, however, if a background check conducted or authorized by the employer contained the information in the sealed record.

(10) County clerks may interact or correspond with the respondent, his or her parents, restitution recipients, and any holders of potential assets or wages of the respondent for the purposes of collecting an outstanding legal financial obligation after juvenile court records have been sealed pursuant to this section.

(11) Persons and agencies that obtain sealed juvenile records information pursuant to this section may communicate about this information with the respondent, but may not disseminate or be compelled to release the information to any person or agency not specifically granted access to sealed juvenile records in this section.

(12) All criminal justice agencies must not disclose confidential information or sealed records accessed through the Washington state identification system or other means, and no information can be given to third parties, other than ((~~Washington state~~)) criminal justice agencies, about the existence or nonexistence of confidential or sealed records concerning an individual.

Passed by the House April 13, 2023.
Passed by the Senate April 6, 2023.
Approved by the Governor April 25, 2023.
Filed in Office of Secretary of State April 26, 2023.

CHAPTER 181

[House Bill 1750]

WATER SAFETY DAY

AN ACT Relating to establishing Yori's law to promote education around water safety and drowning prevention; amending RCW 1.16.050; adding a new section to chapter 1.20 RCW; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that drowning is the leading cause of death for children aged one to four, and for every death, there are five to 10 nonfatal cases requiring hospital care. Babies under one year of age are more likely to drown at home, and 23 percent of child drownings occur during a family gathering near a pool.

The legislature finds that most of these deaths are completely preventable through education around water safety and drowning prevention and increasing equitable access to swimming lessons and water safety tools and equipment. The victims of childhood drowning are disproportionately from communities of color. Forty-five percent of Hispanic children and 64 percent of African American children have limited or no ability to swim, compared to 40 percent of Caucasian children. African American children ages five through 19 are specifically five and one-half times more likely to drown in a swimming pool

compared to their Caucasian counterparts. In addition, male children are twice as likely to drown. Socioeconomic factors also have an impact on disproportionate outcomes. Children whose parents are unable to swim often lack the skill as well, and 79 percent of children in households with an income under $50,000 have limited or no ability to swim.

The legislature emphasizes the importance of educating children, parents, and other caregivers about the basics of swimming, floating, signs of drowning, and how to help drowning victims, as well as bringing awareness to critical layers of protection such as barriers and water safety tools and equipment. Drowning happens quickly and quietly, making it important to watch children closely, raise awareness, and emphasize education around water safety.

Sec. 2. RCW 1.16.050 and 2021 c 295 s 2 are each amended to read as follows:

(1) The following are state legal holidays:

(a) Sunday;

(b) The first day of January, commonly called New Year's Day;

(c) The third Monday of January, celebrated as the anniversary of the birth of Martin Luther King, Jr.;

(d) The third Monday of February, to be known as Presidents' Day and celebrated as the anniversary of the births of Abraham Lincoln and George Washington;

(e) The last Monday of May, commonly known as Memorial Day;

(f) The nineteenth day of June, recognized as Juneteenth, a day of remembrance for the day the African slaves learned of their freedom;

(g) The fourth day of July, the anniversary of the Declaration of Independence;

(h) The first Monday in September, to be known as Labor Day;

(i) The eleventh day of November, to be known as Veterans' Day;

(j) The fourth Thursday in November, to be known as Thanksgiving Day;

(k) The Friday immediately following the fourth Thursday in November, to be known as Native American Heritage Day; and

(l) The twenty-fifth day of December, commonly called Christmas Day.

(2) Employees of the state and its political subdivisions, except employees of school districts and except those nonclassified employees of institutions of higher education who hold appointments or are employed under contracts to perform services for periods of less than twelve consecutive months, are entitled to one paid holiday per calendar year in addition to those specified in this section. Each employee of the state or its political subdivisions may select the day on which the employee desires to take the additional holiday provided for in this section after consultation with the employer pursuant to guidelines to be promulgated by rule of the appropriate personnel authority, or in the case of local government by ordinance or resolution of the legislative authority.

(3) Employees of the state and its political subdivisions, including employees of school districts and those nonclassified employees of institutions of higher education who hold appointments or are employed under contracts to perform services for periods of less than twelve consecutive months, are entitled to two unpaid holidays per calendar year for a reason of faith or conscience or an organized activity conducted under the auspices of a religious denomination, church, or religious organization. This includes employees of public institutions

of higher education, including community colleges, technical colleges, and workforce training programs. The employee may select the days on which the employee desires to take the two unpaid holidays after consultation with the employer pursuant to guidelines to be promulgated by rule of the appropriate personnel authority, or in the case of local government by ordinance or resolution of the legislative authority. If an employee prefers to take the two unpaid holidays on specific days for a reason of faith or conscience, or an organized activity conducted under the auspices of a religious denomination, church, or religious organization, the employer must allow the employee to do so unless the employee's absence would impose an undue hardship on the employer or the employee is necessary to maintain public safety. Undue hardship shall have the meaning established in rule by the office of financial management under RCW 43.41.109.

(4) If any of the state legal holidays specified in this section are also federal legal holidays but observed on different dates, only the state legal holidays are recognized as a paid legal holiday for employees of the state and its political subdivisions. However, for port districts and the law enforcement and public transit employees of municipal corporations, either the federal or the state legal holiday is recognized as a paid legal holiday, but in no case may both holidays be recognized as a paid legal holiday for employees.

(5) Whenever any state legal holiday:

(a) Other than Sunday, falls upon a Sunday, the following Monday is the legal holiday; or

(b) Falls upon a Saturday, the preceding Friday is the legal holiday.

(6) Nothing in this section may be construed to have the effect of adding or deleting the number of paid holidays provided for in an agreement between employees and employers of political subdivisions of the state or as established by ordinance or resolution of the local government legislative authority.

(7) The legislature declares that the following days are recognized as provided in this subsection, but may not be considered legal holidays for any purpose:

(a) The thirteenth day of January, recognized as Korean-American day;

(b) The twelfth day of October, recognized as Columbus day;

(c) The ninth day of April, recognized as former prisoner of war recognition day;

(d) The twenty-sixth day of January, recognized as Washington army and air national guard day;

(e) The seventh day of August, recognized as purple heart recipient recognition day;

(f) The second Sunday in October, recognized as Washington state children's day;

(g) The sixteenth day of April, recognized as Mother Joseph day;

(h) The fourth day of September, recognized as Marcus Whitman day;

(i) The seventh day of December, recognized as Pearl Harbor remembrance day;

(j) The twenty-seventh day of July, recognized as national Korean war veterans armistice day;

(k) The nineteenth day of February, recognized as civil liberties day of remembrance;

(l) The thirtieth day of March, recognized as welcome home Vietnam veterans day;

(m) The eleventh day of January, recognized as human trafficking awareness day;

(n) The thirty-first day of March, recognized as Cesar Chavez day;

(o) The tenth day of April, recognized as Dolores Huerta day;

(p) The fourth Saturday of September, recognized as public lands day; ((~~and~~))

(q) The eighteenth day of December, recognized as blood donor day; and

(r) The fifteenth day of May, recognized as water safety day.

NEW SECTION. **Sec. 3.** A new section is added to chapter 1.20 RCW to read as follows:

On the day recognized as water safety day under RCW 1.16.050, individuals who work directly with children, from infants to age 18, in their profession are encouraged to provide training, educational materials, and other resources to the children and their families around water safety, water rescue, and drowning prevention, including a list of locations where caregivers can access swimming lessons for their children.

NEW SECTION. **Sec. 4.** In memory of those lost to drowning, this act may be known and cited as "Yori's law."

Passed by the House March 8, 2023.
Passed by the Senate April 12, 2023.
Approved by the Governor April 25, 2023.
Filed in Office of Secretary of State April 26, 2023.

CHAPTER 182

[Substitute Senate Bill 5127]

STUDENT PERSONAL INFORMATION—PUBLIC RECORDS ACT EXEMPTION

AN ACT Relating to clarifying school districts' ability to redact personal information related to a student in any record maintained by the school district; amending RCW 42.56.230; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature recognizes the important public interest in maintaining an open and transparent government and the critically important role that our public records act plays in ensuring the people of Washington have access to public records maintained by state and local agencies with narrow exemptions. The legislature recognizes that protecting the personal information of our minor students is also of critical importance, especially when disclosure of that personal information could potentially jeopardize the physical or mental health and safety of a student. While current state law also acknowledges the importance of protecting a student's privacy by providing an exemption for personal information in records maintained on a student's behalf, the legislature notes that there have been instances where information has been released from records held by schools that contains personal information about a student or related to a student and the release allows the student to be identified. The legislature intends to provide additional clarity in this narrow situation involving the disclosure of personal information related to a student that may be

found in a nonstudent record. This clarity is intended to ensure school districts understand that they have the ability to protect a student's privacy and redact personal information related to a student regardless of the type of record that the information is found in.

Sec. 2. RCW 42.56.230 and 2021 c 89 s 1 are each amended to read as follows:

The following personal information is exempt from public inspection and copying under this chapter:

(1) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, or welfare recipients;

(2)(a) Personal information:

(i) For a child enrolled in licensed child care in any files maintained by the department of children, youth, and families;

(ii) For a child enrolled in a public or nonprofit program serving or pertaining to children, adolescents, or students, including but not limited to early learning or child care services, parks and recreation programs, youth development programs, and after-school programs;

(iii) For a student enrolled or previously enrolled in a local education agency, in any records pertaining to the student, including correspondence;

(iv) For the family members or guardians of a child who is subject to the exemption under this subsection (2) if the family member or guardian has the same last name as the child or if the family member or guardian resides at the same address as the child and disclosure of the family member's or guardian's information would result in disclosure of the personal information exempted under (a)(i) ((~~and (ii)~~)) through (iii) of this subsection; or

(((~~iv~~))) (v) For substitute caregivers who are licensed or approved to provide overnight care of children by the department of children, youth, and families.

(b) Emergency contact information under this subsection (2) may be provided to appropriate authorities and medical personnel for the purpose of treating the individual during an emergency situation;

(3) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy;

(4) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would: (a) Be prohibited to such persons by RCW 84.08.210, 82.32.330, 84.40.020, 84.40.340, or any ordinance authorized under RCW 35.102.145; or (b) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer;

(5) Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial information as defined in RCW 9.35.005 including social security numbers, except when disclosure is expressly required by or governed by other law;

(6) Personal and financial information related to a small loan or any system of authorizing a small loan in RCW 31.45.093;

(7)(a) Any record used to prove identity, age, residential address, social security number, or other personal information required to apply for a driver's license or identicard.

(b) Information provided under RCW 46.20.111 that indicates that an applicant declined to register with the selective service system.

(c) Any record pertaining to a vehicle license plate, driver's license, or identicard issued under RCW 46.08.066 that, alone or in combination with any other records, may reveal the identity of an individual, or reveal that an individual is or was, performing an undercover or covert law enforcement, confidential public health work, public assistance fraud, or child support investigative activity. This exemption does not prevent the release of the total number of vehicle license plates, drivers' licenses, or identicards that, under RCW 46.08.066, an agency or department has applied for, been issued, denied, returned, destroyed, lost, and reported for misuse.

(d) Any record pertaining to a vessel registration issued under RCW 88.02.330 that, alone or in combination with any other records, may reveal the identity of an individual, or reveal that an individual is or was, performing an undercover or covert law enforcement activity. This exemption does not prevent the release of the total number of vessel registrations that, under RCW 88.02.330, an agency or department has applied for, been issued, denied, returned, destroyed, lost, and reported for misuse.

Upon request by the legislature, the department of licensing shall provide a report to the legislature containing all of the information in (c) of this subsection (7) and this subsection (7)(d) that is subject to public disclosure;

(8) All information related to individual claim resolution settlement agreements submitted to the board of industrial insurance appeals under RCW 51.04.063, other than final orders from the board of industrial insurance appeals. The board of industrial insurance appeals shall provide to the department of labor and industries copies of all final claim resolution settlement agreements;

(9) Voluntarily submitted information contained in a database that is part of or associated with ((~~enhanced~~)) 911 emergency communications systems, or information contained or used in emergency notification systems as provided under RCW 38.52.575 and 38.52.577;

(10) Until the person reaches eighteen years of age, information, otherwise disclosable under chapter 29A.08 RCW, that relates to a future voter, except for the purpose of processing and delivering ballots;

(11) All information submitted by a person to the state, either directly or through a state-licensed gambling establishment, or Indian tribes, or tribal enterprises that own gambling operations or facilities with class III gaming compacts, as part of the self-exclusion program established in RCW 9.46.071 or 67.70.040 for people with a gambling problem or gambling disorder; and

(12) Names, addresses, or other personal information of individuals who participated in the bump-fire stock buy-back program under <u>former</u> RCW 43.43.920.

Passed by the Senate March 1, 2023.

Passed by the House April 10, 2023.

Approved by the Governor April 25, 2023.

Filed in Office of Secretary of State April 26, 2023.

CHAPTER 183

[Substitute Senate Bill 5145]

HYDROELECTRIC PROJECTS—OUTDOOR RECREATION LIABILITY—CERTAIN ACTIVITIES

AN ACT Relating to clarifying existing law regarding liability protections associated with public recreational use of lands or waters under a hydroelectric license issued by the federal energy regulatory commission; amending RCW 4.24.210; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 4.24.210 and 2017 c 245 s 1 are each amended to read as follows:

(1) Except as otherwise provided in subsection (3) or (4) of this section, any public or private landowners, hydroelectric project owners, or others in lawful possession and control of any lands whether designated resource, rural, or urban, or water areas or channels and lands adjacent to such areas or channels, who allow members of the public to use them for the purposes of outdoor recreation, which term includes, but is not limited to, the cutting, gathering, and removing of firewood by private persons for their personal use without purchasing the firewood from the landowner, hunting, fishing, camping, picnicking, swimming, hiking, bicycling, skateboarding or other nonmotorized wheel-based activities, aviation activities including, but not limited to, the operation of airplanes, ultra-light airplanes, hang gliders, parachutes, and paragliders, rock climbing, the riding of horses or other animals, clam digging, pleasure driving of off-road vehicles, snowmobiles, and other vehicles, boating, kayaking, canoeing, rafting, nature study, winter or water sports, viewing or enjoying historical, archaeological, scenic, or scientific sites, without charging a fee of any kind therefor, shall not be liable for unintentional injuries to such users.

(2) Except as otherwise provided in subsection (3) or (4) of this section, any public or private landowner or others in lawful possession and control of any lands whether rural or urban, or water areas or channels and lands adjacent to such areas or channels, who offer or allow such land to be used for purposes of a fish or wildlife cooperative project, or allow access to such land for cleanup of litter or other solid waste, shall not be liable for unintentional injuries to any volunteer group or to any other users.

(3) Any public or private landowner, or others in lawful possession and control of the land, may charge an administrative fee of up to twenty-five dollars for the cutting, gathering, and removing of firewood from the land.

(4)(a) Nothing in this section shall prevent the liability of a landowner or others in lawful possession and control for injuries sustained to users by reason of a known dangerous artificial latent condition for which warning signs have not been conspicuously posted.

(i) A fixed anchor used in rock climbing and put in place by someone other than a landowner is not a known dangerous artificial latent condition and a landowner under subsection (1) of this section shall not be liable for unintentional injuries resulting from the condition or use of such an anchor.

(ii) Releasing water or flows and making waterways or channels available for boating, swimming, fishing, kayaking, canoeing, or rafting purposes pursuant to and in substantial compliance with a hydroelectric license issued by the federal energy regulatory commission, and making adjacent lands available for purposes of allowing viewing of such activities, does not create a known

dangerous artificial latent condition and hydroelectric project owners under subsection (1) of this section shall not be liable for unintentional injuries to the recreational users and observers resulting from such releases and activities.

(b) Nothing in RCW 4.24.200 and this section limits or expands in any way the doctrine of attractive nuisance.

(c) Usage by members of the public, volunteer groups, or other users is permissive and does not support any claim of adverse possession.

(5) For purposes of this section, the following are not fees:

(a) A license or permit issued for statewide use under authority of chapter 79A.05 RCW or Title 77 RCW;

(b) A pass or permit issued under RCW 79A.80.020, 79A.80.030, or 79A.80.040;

(c) A daily charge not to exceed twenty dollars per person, per day, for access to a publicly owned ORV sports park, as defined in RCW 46.09.310, or other public facility accessed by a highway, street, or nonhighway road for the purposes of off-road vehicle use; and

(d) Payments to landowners for public access from state, local, or nonprofit organizations established under department of fish and wildlife cooperative public access agreements if the landowner does not charge a fee to access the land subject to the cooperative agreement.

NEW SECTION. **Sec. 2.** This act does not apply to any action filed prior to the effective date of this section.

Passed by the Senate March 7, 2023.
Passed by the House April 11, 2023.
Approved by the Governor April 25, 2023.
Filed in Office of Secretary of State April 26, 2023.

CHAPTER 184

[Senate Bill 5155]

COURT OF APPEALS—ADMINISTRATION

AN ACT Relating to the court of appeals; and amending RCW 2.06.040.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 2.06.040 and 2007 c 34 s 1 are each amended to read as follows:

The court shall sit in panels of three judges and decisions shall be rendered by not less than a majority of the panel. In the determination of causes all decisions of the court shall be given in writing and the grounds of the decisions shall be stated. All decisions of the court having precedential value shall be published as opinions of the court. Each panel shall determine whether a decision of the court has sufficient precedential value to be published as an opinion of the court. Decisions determined not to have precedential value shall not be published. ((~~Panels in the first division shall be comprised of such judges as the chief judge thereof shall from time to time direct.~~)) Judges of the respective divisions may sit in other divisions ((~~and~~)), causes may be transferred between divisions, ((~~as directed by written order of the chief justice. The~~)) and the court may hold sessions in cities, as ((~~may be designated~~)) provided by rule.

The court may establish rules supplementary to and not in conflict with rules of the supreme court.

Passed by the Senate February 8, 2023.
Passed by the House April 10, 2023.
Approved by the Governor April 25, 2023.
Filed in Office of Secretary of State April 26, 2023.

CHAPTER 185

[Substitute Senate Bill 5261]

DISPOSITION OF HUMAN REMAINS—PERMIT, LICENSE, AND ENDORSEMENT DEADLINES

AN ACT Relating to deadlines concerning permits, licenses, or endorsements of cemetery authorities; amending RCW 68.05.215, 68.05.225, 68.05.245, and 18.39.020; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 68.05.215 and 2005 c 365 s 60 are each amended to read as follows:

The regulatory charges for cemetery certificates at all periods of the year are the same as provided in this chapter. All regulatory charges are payable at the time of the filing of the application and in advance of the issuance of the certificates. All certificates shall be issued for the year and shall expire at midnight, the ((~~thirty-first~~)) 31st day of ((~~January~~)) March of each year, or at whatever time during any year that ownership or control of any cemetery authority is transferred or sold. Cemetery certificates shall not be transferable.

Sec. 2. RCW 68.05.225 and 2005 c 365 s 61 are each amended to read as follows:

All prearrangement sales licenses issued under this chapter shall be issued for the year and shall expire at midnight, the ((~~thirty-first~~)) 31st day of ((~~January~~)) March of each year, or at whatever time during any year that ownership or control of any cemetery authority is transferred or sold.

The director, in accordance with RCW 43.24.086, shall set and the department shall collect in advance the fees required for licensing.

Sec. 3. RCW 68.05.245 and 2019 c 432 s 15 are each amended to read as follows:

(1) All permits, licenses, or endorsements issued under this chapter ((~~or chapter 18.39 RCW~~)) must be issued for the year and expire at midnight, the ((~~thirty-first~~)) 31st day of ((~~January~~)) March of each year, or at whatever time during any year that ownership or control of any cemetery authority that operates such facility is transferred or sold.

(2) The director must set and the department must collect in advance the fees required for licensing.

Sec. 4. RCW 18.39.020 and 2005 c 365 s 2 are each amended to read as follows:

(1) It is unlawful for any person to act or hold himself or herself out as a funeral director or embalmer or discharge any of the duties of a funeral director or embalmer as defined in this chapter unless the person has a valid license

under this chapter. It is unlawful for any person to establish, maintain, or operate a funeral establishment without a valid establishment license.

(2) Except as otherwise provided in this chapter, all permits, licenses, or endorsements issued under this chapter must be issued for the year and expire at midnight, the 31st day of January of each year, or at whatever time during any year that ownership or control of any funeral establishment that operates such facility is transferred or sold.

NEW SECTION. **Sec. 5.** This act takes effect October 31, 2023.

Passed by the Senate February 8, 2023.
Passed by the House April 10, 2023.
Approved by the Governor April 25, 2023.
Filed in Office of Secretary of State April 26, 2023.

CHAPTER 186

[Senate Bill 5330]

PESTICIDE APPLICATION ACT—VARIOUS PROVISIONS

AN ACT Relating to the Washington pesticide application act; amending RCW 17.21.020, 17.21.130, and 17.21.132; and adding a new section to chapter 17.21 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 17.21.020 and 2010 1st sp.s. c 7 s 134 are each amended to read as follows:

((~~Unless the context clearly requires otherwise, the~~)) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agricultural commodity" means any plant or part of a plant, or animal, or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by people or animals.

(2) "Agricultural land" means land on which an agricultural commodity is produced or land that is in a government-recognized conservation reserve program. This definition does not apply to private gardens where agricultural commodities are produced for personal consumption.

(3) "Antimicrobial pesticide" means a pesticide that is used for the control of microbial pests, including but not limited to viruses, bacteria, algae, and protozoa, and is intended for use as a disinfectant or sanitizer.

(4) "Apparatus" means any type of ground, water, or aerial equipment, device, or contrivance using motorized, mechanical, or pressurized power and used to apply ((~~any pesticide on land and anything that may be growing, habitating, or stored on or in such land, but shall not include any pressurized handsized household device used to apply any pesticide, or any equipment, device, or contrivance of which the person who is applying the pesticide is the source of power or energy in making such pesticide application, or any other small equipment, device, or contrivance that is transported in a piece of equipment licensed under this chapter as an apparatus~~)) pesticides that are mounted, attached to, pulled, or carried on any vehicle, trailer, aircraft, vessel, or all-terrain vehicle designed primarily for transportation and movement, but does

not include a device that is handheld, carried by the applicator, or placed in position for a sedentary timed or metered application.

(5) "Arthropod" means any invertebrate animal that belongs to the phylum arthropoda, which in addition to insects, includes allied classes whose members are wingless and usually have more than six legs; for example, spiders, mites, ticks, centipedes, and isopod crustaceans.

(6) "Certified applicator" means any individual who is licensed as a commercial pesticide applicator, commercial pesticide operator, public operator, private-commercial applicator, demonstration and research applicator, private applicator, limited private applicator, rancher private applicator, or any other individual who is certified by the director to use or supervise the use of any pesticide which is classified by the EPA or the director as a restricted use pesticide.

(7) "Commercial pesticide applicator" means any person who engages in the business of applying pesticides to the land of another.

(8) "Commercial pesticide operator" means any employee of a commercial pesticide applicator who uses or supervises the use of any pesticide and who is required to be licensed under provisions of this chapter.

(9) "Defoliant" means any substance or mixture of substances intended to cause the leaves or foliage to drop from a plant with or without causing abscission.

(10) "Department" means the Washington state department of agriculture.

(11) "Desiccant" means any substance or mixture of substances intended to artificially accelerate the drying of plant tissues.

(12) "Device" means any instrument or contrivance intended to trap, destroy, control, repel, or mitigate pests, but not including equipment used for the application of pesticides when sold separately from the pesticides.

(13) "Direct supervision" by certified private applicators shall mean that the designated restricted use pesticide shall be applied for purposes of producing any agricultural commodity on land owned or rented by the applicator or the applicator's employer, by a competent person acting under the instructions and control of a certified private applicator who is immediately available ((~~if and when needed~~)), even though such certified private applicator is not physically present at the time and place the pesticide is applied. The certified private applicator shall have direct management responsibility and familiarity of the pesticide, manner of application, pest, and land to which the pesticide is being applied. Direct supervision by all other certified applicators means direct on-the-job supervision and shall require that the certified applicator be physically present at the application site and that the person making the application be in voice and visual contact with the certified applicator at all times during the application. However, direct supervision for forest application does not require constant voice and visual contact when general use pesticides are applied using nonapparatus type equipment, the certified applicator is physically present and readily available in the immediate application area, and the certified applicator directly observes pesticide mixing and batching. Direct supervision of an aerial apparatus means the pilot of the aircraft must be appropriately certified.

(14) "Director" means the director of the department or a duly authorized representative.

(15) "Engage in business" means any application of pesticides by any person upon lands or crops of another.

(16) "EPA" means the United States environmental protection agency.

(17) "EPA restricted use pesticide" means any pesticide classified for restricted use by the administrator, EPA.

(18) "FIFRA" means the federal insecticide, fungicide and rodenticide act as amended (61 Stat. 163, 7 U.S.C. Sec. 136 et seq.).

(19) "Forest application" means the application of pesticides to agricultural land used to grow trees for the commercial production of wood or wood fiber for products such as dimensional lumber, shakes, plywood, poles, posts, pilings, particle board, hardboard, oriented strand board, pulp, paper, cardboard, or other similar products.

(20) "Fumigant" means any pesticide product or combination of products that is a vapor or gas or forms a vapor or gas on application and whose method of pesticidal action is through the gaseous state.

(21) "Fungi" means all nonchlorophyll-bearing thallophytes (all nonchlorophyll-bearing plants of lower order than mosses and liverworts); for example, rusts, smuts, mildews, molds, and yeasts, except those on or in a living person or other animals.

(22) "Fungicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any fungi.

(23) "Herbicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any weed or other higher plant.

(24) "Immediate service call" means a landscape application to satisfy an emergency customer request for service, or a treatment to control a pest to landscape plants.

(25) "Insect" means any small invertebrate animal, in any life stage, whose adult form is segmented and which generally belongs to the class insecta, comprised of six-legged, usually winged forms, as, for example, beetles, bugs, bees, and flies. The term insect shall also apply to other allied classes of arthropods whose members are wingless and usually have more than six legs, for example, spiders, mites, ticks, centipedes, and isopod crustaceans.

(26) "Insecticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insect.

(27) "Land" means all land and water areas, including airspace and all plants, animals, structures, buildings, devices, and contrivances, appurtenant to or situated on, fixed or mobile, including any used for transportation.

(28) "Landscape application" means an application of any EPA registered pesticide to any exterior landscape area around residential property, commercial properties such as apartments or shopping centers, parks, golf courses, schools including nursery schools and licensed day cares, or cemeteries or similar areas. This definition shall not apply to: (a) Applications made by private applicators, limited private applicators, or rancher private applicators; (b) mosquito abatement, gypsy moth eradication, or similar wide-area pest control programs sponsored by governmental entities; and (c) commercial pesticide applicators making structural applications.

(29) "Limited private applicator" means a certified applicator who uses or is in direct supervision, as defined for private applicators in this section, of the use of any herbicide classified by the EPA or the director as a restricted use

pesticide, for the sole purpose of controlling weeds on nonproduction agricultural land owned or rented by the applicator or the applicator's employer. Limited private applicators may also use restricted use pesticides on timber areas, excluding aquatic sites, to control weeds designated for mandatory control under chapters 17.04, 17.06, and 17.10 RCW and state and local regulations adopted under chapters 17.04, 17.06, and 17.10 RCW. A limited private applicator may apply restricted use herbicides to the types of land described in this subsection of another person if applied without compensation other than trading of personal services between the applicator and the other person. This license is only valid when making applications in counties of Washington located east of the crest of the Cascade mountains.

(30) "Limited production agricultural land" means land used to grow hay and grain crops that are consumed by the livestock on the farm where produced. No more than ten percent of the hay and grain crops grown on limited production agricultural land may be sold each crop year. Limited production agricultural land does not include aquatic sites.

(31) "Nematocide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate nematodes.

(32) "Nematode" means any invertebrate animal of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting soil, water, plants or plant parts. Nematodes may also be called nemas or eelworms.

(33) "Nonproduction agricultural land" means pastures, rangeland, fencerows, and areas around farm buildings but not aquatic sites.

(34) "Person" means any individual, partnership, association, corporation, or organized group of persons whether or not incorporated.

(35) "Pest" means, but is not limited to, any insect, rodent, nematode, snail, slug, weed, and any form of plant or animal life or virus, except virus, bacteria, or other microorganisms on or in a living person or other animal or in or on processed food or beverages or pharmaceuticals, which is normally considered to be a pest, or which the director may declare to be a pest.

(36) "Pesticide" means, but is not limited to:

(a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any pest;

(b) Any substance or mixture of substances intended to be used as a plant regulator, defoliant or desiccant; and

(c) Any spray adjuvant as defined in RCW 15.58.030.

(37) "Plant regulator" means any substance or mixture of substances intended through physiological action, to accelerate or retard the rate of growth or maturation, or to otherwise alter the behavior of ornamental or crop plants or their produce, but shall not include substances insofar as they are intended to be used as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments.

(38) "Private applicator" means a certified applicator who uses or is in direct supervision of the use of any pesticide classified by the EPA or the director as a restricted use pesticide, for the purposes of producing any agricultural commodity and for any associated noncrop application on land owned or rented by the applicator or the applicator's employer or if applied without compensation

other than trading of personal services between producers of agricultural commodities on the land of another person.

(39) "Private-commercial applicator" means a certified applicator who uses or supervises the use of any pesticide classified by the EPA or the director as a restricted use pesticide for purposes other than the production of any agricultural commodity on lands owned or rented by the applicator or the applicator's employer.

(40) "Rancher private applicator" means a certified applicator who uses or is in direct supervision, as defined for private applicators in this section, of the use of any herbicide or any rodenticide classified by the EPA or the director as a restricted use pesticide for the purpose of controlling weeds and pest animals on nonproduction agricultural land and limited production agricultural land owned or rented by the applicator or the applicator's employer. Rancher private applicators may also use restricted use pesticides on timber areas, excluding aquatic sites, to control weeds designated for mandatory control under chapters 17.04, 17.06, and 17.10 RCW and state and local regulations adopted under chapters 17.04, 17.06, and 17.10 RCW. A rancher private applicator may apply restricted use herbicides and rodenticides to the types of land described in this subsection of another person if applied without compensation other than trading of personal services between the applicator and the other person. This license is only valid when making applications in counties of Washington located east of the crest of the Cascade mountains.

(41) "Residential property" includes property less than one acre in size zoned as residential by a city, town, or county, but does not include property zoned as agricultural or agricultural homesites.

(42) "Restricted use pesticide" means any pesticide or device which, when used as directed or in accordance with a widespread and commonly recognized practice, the director determines, subsequent to a hearing, requires additional restrictions for that use to prevent unreasonable adverse effects on the environment including people, lands, beneficial insects, animals, crops, and wildlife, other than pests.

(43) "Rodenticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate rodents, or any other vertebrate animal which the director may declare by rule to be a pest.

(44) "School facility" means any facility used for licensed day care center purposes or for the purposes of a public kindergarten or public elementary or secondary school. School facility includes the buildings or structures, playgrounds, landscape areas, athletic fields, school vehicles, or any other area of school property.

(45) "Snails or slugs" include all harmful mollusks.

(46) "Unreasonable adverse effects on the environment" means any unreasonable risk to people or the environment taking into account the economic, social, and environmental costs and benefits of the use of any pesticide, or as otherwise determined by the director.

(47) "Weed" means any plant which grows where it is not wanted.

(48) "Mishap" means an event that adversely affects humans or the environment and that is related to the use or presence of a pesticide whether the event was unexpected or unintentional.

(49) "Noncertified applicator" means an individual who is not licensed by the director in accordance with this chapter to use or supervise the use of any pesticide that is classified by EPA or the director as a restricted use pesticide in the classification appropriate to the type of application being conducted.

(50) "Use" as in "to use a pesticide," means:

(a) Whenever the "restricted use pesticide" designation statement appears on a pesticide label, "use" means any of the following:

(i) Preapplication activities involving mixing and loading the pesticide;

(ii) Applying the pesticide including, but not limited to, supervising the use of a pesticide by a noncertified applicator; and

(iii) Other pesticide-related activities including, but not limited to, transporting or storing pesticide containers that have been opened, cleaning equipment, and disposing of excess pesticides, spray mix, equipment wash waters, pesticide containers, and other pesticide-containing materials.

(b) Whenever the "restricted use pesticide" designation statement does not appear on a pesticide label, "use" means any of the following:

(i) Preapplication activities involving mixing and loading the pesticide;

(ii) Applying the pesticide including, but not limited to, supervising the use of a pesticide by a noncertified applicator; and

(iii) Other activities required by the label instructions.

(51) "Use-specific instruction" means the information and requirements specific to a particular pesticide product or work site that an applicator needs in order to use the pesticide in accordance with applicable requirements and without causing unreasonable adverse effects.

Sec. 2. RCW 17.21.130 and 1997 c 58 s 877 are each amended to read as follows:

(1) Any license, permit, or certification provided for in this chapter may be revoked or suspended, and any license, permit, or certification application may be denied by the director for cause. If the director suspends a license under this chapter with respect to activity of a continuing nature under chapter 34.05 RCW, the director may elect to suspend the license for a subsequent license year during a period that coincides with the period commencing ((~~thirty~~)) 30 days before and ending ((~~thirty~~)) 30 days after the date of the incident or incidents giving rise to the violation.

(2) The director shall immediately suspend the license or certificate of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order ((~~or a residential or visitation order~~)). If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

(3) The director may elect to suspend or revoke any license or certification that is based in whole or in part on a license or certification from another state or jurisdiction upon notification that the applicator's original certification was terminated because the certified applicator has been convicted under section 14(b) of FIFRA or has been subject to a final order imposing a civil penalty under section 14(a) of FIFRA.

Sec. 3. RCW 17.21.132 and 2004 c 100 s 4 are each amended to read as follows:

Any person applying for a license or certification authorized under the provisions of this chapter shall file an application on a form prescribed by the director.

(1) The application shall state the license or certification and the classification(s) for which the applicant is applying and the method in which the pesticides are to be applied.

(2) For all classes of licenses ((~~except private applicator, limited private applicator, and rancher private applicator~~)), all applicants shall be at least ((~~eighteen~~)) 18 years of age on the date that the application is made. ((~~Applicants for a private applicator, limited private applicator, or rancher private applicator license shall be at least sixteen years of age on the date that the application is made.~~))

(3) Application for a license to apply pesticides shall be accompanied by the required fee. No license may be issued until the required fee has been received by the department.

(4) Each classification of license issued under this chapter except the limited private applicator and the rancher private applicator expires annually on a date set by rule by the director. Limited and rancher private applicator licenses expire on the fifth December 31st after issuance. Renewal applications shall be filed on or before the applicable expiration date.

NEW SECTION. **Sec. 4.** A new section is added to chapter 17.21 RCW to read as follows:

The department shall adopt by rule standards for pesticide applications made by noncertified applicators of restricted use pesticides under the direct supervision of a certified applicator. Standards must be at least as effective as the federal certification and training standards for pesticide applicators and must include requirements for both the noncertified applicator and the certified applicator directly supervising the noncertified applicator.

Passed by the Senate March 6, 2023.
Passed by the House April 12, 2023.
Approved by the Governor April 25, 2023.
Filed in Office of Secretary of State April 26, 2023.

CHAPTER 187

[Substitute Senate Bill 5353]

VOLUNTARY STEWARDSHIP PROGRAM—COUNTY PARTICIPATION

AN ACT Relating to the voluntary stewardship program; and amending RCW 36.70A.710 and 36.70A.740.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 36.70A.710 and 2011 c 360 s 4 are each amended to read as follows:

(1)(a) As an alternative to protecting critical areas in areas used for agricultural activities through development regulations adopted under RCW 36.70A.060, the legislative authority of a county may elect to protect such critical areas through the program.

(b) In order to participate in the program, ((~~within six months after July 22, 2011,~~)) the legislative authority of a county must adopt an ordinance or resolution that:

(i) Elects to have the county participate in the program;

(ii) Identifies the watersheds that will participate in the program; and

(iii) Based on the criteria in subsection (4) of this section, nominates watersheds for consideration by the commission as state priority watersheds.

(2) Before adopting the ordinance or resolution under subsection (1) of this section, the county must (a) confer with tribes, and environmental and agricultural interests; and (b) provide notice following the public participation and notice provisions of RCW 36.70A.035 to property owners and other affected and interested individuals, tribes, government agencies, businesses, school districts, and organizations.

(3) In identifying watersheds to participate in the program, a county must consider:

(a) The role of farming within the watershed, including the number and acreage of farms, the economic value of crops and livestock, and the risk of the conversion of farmland;

(b) The overall likelihood of completing a successful program in the watershed; and

(c) Existing watershed programs, including those of other jurisdictions in which the watershed has territory.

(4) In identifying priority watersheds, a county must consider the following:

(a) The role of farming within the watershed, including the number and acreage of farms, the economic value of crops and livestock, and the risk of the conversion of farmland;

(b) The importance of salmonid resources in the watershed;

(c) An evaluation of the biological diversity of wildlife species and their habitats in the geographic region including their significance and vulnerability;

(d) The presence of leadership within the watershed that is representative and inclusive of the interests in the watershed;

(e) Integration of regional watershed strategies, including the availability of a data and scientific review structure related to all types of critical areas;

(f) The presence of a local watershed group that is willing and capable of overseeing a successful program, and that has the operational structures to administer the program effectively, including professional technical assistance staff, and monitoring and adaptive management structures; and

(g) The overall likelihood of completing a successful program in the watershed.

(5) Except as otherwise provided in subsection (9) of this section, beginning with the effective date of the ordinance or resolution adopted under subsection (1) of this section, the program applies to all unincorporated property upon which agricultural activities occur within a participating watershed.

(6)(a) Except as otherwise provided in (b) of this subsection, within two years after July 22, 2011, a county must review and, if necessary, revise development regulations adopted under this chapter to protect critical areas as they specifically apply to agricultural activities:

(i) If the county has not elected to participate in the program, for all unincorporated areas; or

(ii) If the county has elected to participate in the program, for any watershed not participating in the program.

(b) A county that between July 1, 2003, and June 30, 2007, in accordance with RCW 36.70A.130 completed the review of its development regulations as required by RCW 36.70A.130 to protect critical areas as they specifically apply to agricultural activities is not required to review and revise its development regulations until required by RCW 36.70A.130.

(c) After the review and amendment required under (a) of this subsection, RCW 36.70A.130 applies to the subsequent review and amendment of development regulations adopted under this chapter to protect critical areas as they specifically apply to agricultural activities.

(7)(a) A county that has made the election under subsection (1) of this section may withdraw a participating watershed from the program by adopting an ordinance or resolution withdrawing the watershed from the program. A county may withdraw a watershed from the program at the end of three years, five years, or eight years after receipt of funding, or any time after ten years from receipt of funding.

(b) Within ((~~eighteen~~)) 18 months after withdrawing a participating watershed from the program, the county must review and, if necessary, revise its development regulations that protect critical areas in that watershed as they specifically apply to agricultural activities. The development regulations must protect the critical area functions and values as they existed on July 22, 2011. RCW 36.70A.130 applies to the subsequent review and amendment of development regulations adopted under this chapter to protect critical areas as they specifically apply to agricultural activities.

(8)(a) A county that has made the election under subsection (1) of this section is eligible for a share of the funding made available to implement the program, subject to funding availability from the state.

(b) A county that has made the election under subsection (1) of this section and after the effective date of this section is eligible for a share of the funding made available to implement the program, subject to funding availability from the state.

(9)(a) A county that has made the election under subsection (1) of this section is not required to implement the program in a participating watershed until adequate funding for the program in that watershed is provided to the county.

(b) A county that has made the election under subsection (1) of this section and after the effective date of this section is not required to implement the program in a participating watershed until adequate funding for the program in that watershed is provided to the county. The election under subsection (1) of this section may not take effect until new adequate funding for the program in that watershed is provided to the county.

Sec. 2. RCW 36.70A.740 and 2011 c 360 s 10 are each amended to read as follows:

(1) ((~~By July 31, 2015, the~~)) The commission must:

(a) In consultation with each county that has elected under RCW 36.70A.710 to participate in the program, determine which participating watersheds received adequate funding to establish and implement the program in a participating watershed ((~~by July 1, 2015~~)); and

(b) In consultation with other state agencies, for each participating watershed determine whether state agencies required to take action under the provisions of RCW 36.70A.700 through 36.70A.760 have received adequate funding to support the program ((~~by July 1, 2015~~)).

(2) By July 31, ((~~2017~~)) 2023, and every two years thereafter, in consultation with each county that has elected under RCW 36.70A.710 to participate in the program and other state agencies, the commission shall determine for each participating watershed whether adequate funding to implement the program was provided during the preceding biennium as provided in subsection (1) of this section.

(3) If the commission determines under subsection (1) or (2) of this section that a participating watershed has not received adequate funding, the watershed is subject to the provisions of RCW 36.70A.735.

(4) In consultation with the statewide advisory committee and other state agencies, not later than August 31, 2015, and each August 31st every two years thereafter, the commission shall report to the legislature and each county that has elected under RCW 36.70A.710 to participate in the program on the participating watersheds that have received adequate funding to establish and implement the program.

Passed by the Senate March 2, 2023.
Passed by the House April 11, 2023.
Approved by the Governor April 25, 2023.
Filed in Office of Secretary of State April 26, 2023.

CHAPTER 188

[Senate Bill 5550]

STATE FERRIES—WORKFORCE DEVELOPMENT

AN ACT Relating to addressing workforce development issues, including cultural issues, at the Washington state ferries; reenacting and amending RCW 47.60.005; and adding a new section to chapter 47.60 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 47.60 RCW to read as follows:

(1) The legislature finds that the maritime sector in Washington state is currently facing historic labor challenges. The legislature further finds that the Washington state ferry system is an essential component of the transportation system. Therefore, the legislature intends that Washington state ferries implement the recommendations of the joint transportation committee study on workforce planning, completed in December 2022.

(2) Washington state ferries shall adopt a formal strategy to implement diversity, equity, and inclusion directives to address issues including, but not limited to, recruitment, employee development, retention, and agency branding for workforce marketing materials. The strategy may address specific goals and objectives of diversity, equity, and inclusion efforts, training and development of staff, and key performance indicators to track effectiveness of the strategy.

(3)(a) On an annual basis, Washington state ferries shall conduct an employee survey of employees' feedback on workplace conditions either via the

department-wide survey or utilizing a third-party consultant. The results of the survey shall be used at a minimum to:

(i) Perform an in-depth cultural assessment;

(ii) Identify any issues of concern among the Washington state ferries workforce; and

(iii) Form the basis of an action plan to remediate any cultural issues identified.

(b) Washington state ferries shall submit a summary of survey results and corresponding action planning to address cultural issues to the transportation committees of the legislature and the office of financial management at the time of Washington state ferries' biennial budget submissions, beginning with the 2025-2027 submission.

(4) Washington state ferries shall continuously seek methods to improve workforce development and career advancement for all employees with a focus on vessel engine room and deck, terminal, and Eagle Harbor maintenance facility tradespeople. In consultation with labor partners, Washington state ferries shall develop programs for employees to gain maritime credentials and marine pilotage required by the United States coast guard, as well as transferring knowledge through formalized mentorship, work shadow, or apprenticeship programs. Washington state ferries shall adopt a formal policy to assist applicants to gain required United States coast guard documentation and maritime credentialing necessary for entry level positions. Assistance to perspective employees may include both financial and technical assistance.

(5) When possible, Washington state ferries shall partner with maritime academies and training facilities to offer instruction, including electronic learning, internships, or apprenticeships, to current or perspective employees.

(6) Washington state ferries shall continuously evaluate management practices concerning recruitment and hiring, staffing levels, scheduling practices, compensation, and agency technology needs, to optimize system and administrative performance. The evaluation must include a strategy to develop or modify a staffing model to forecast staffing needs and succession planning for future biennia and set a target level of operational overtime.

(7) At the time of Washington state ferries' biennial budget submissions, beginning with the 2025-2027 submission, Washington state ferries shall report staffing progress for deck, terminal, maintenance shop, and engine room employees, identifying:

(a) The approximate number of employees eligible for promotion;

(b) The number of employees eligible for retirement;

(c) The number of employees who have utilized on-the-job programs to gain maritime credentials or fulfill marine pilotage requirements; and

(d) A forecast of all staffing needs and changes for the subsequent biennia.

Sec. 2. RCW 47.60.005 and 2015 3rd sp.s. c 14 s 1 are each reenacted and amended to read as follows:

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

(1) "Adaptive management" means a systematic process for continually improving management policies and practices by learning from the outcomes of operational programs.

(2) "Capital plan" means the state ferry system plan developed by the department as described in RCW 47.06.050(2), reviewed by the commission, and reported to the transportation committees of the legislature by the department.

(3) "Capital project" has the same meaning as used in budget instructions developed by the office of financial management.

(4) "Commission" means the transportation commission created in RCW 47.01.051.

(5) "Fixed price contract" means a contract that requires the contractor to deliver a specified project for a set price. Change orders on fixed price contracts are allowable but should be used on a very limited basis.

(6) "Improvement project" has the same meaning as in the budget instructions developed by the office of financial management. If the budget instructions do not define improvement project, then it has the same meaning as "program project" in the budget instructions. If a project meets both the improvement project and preservation project definitions in this section it must be defined as an improvement project. New vessel acquisitions must be defined as improvement projects.

(7) "Life-cycle cost analysis" means an analysis of the full net present value cost of constructing and operating a vessel over its life span, including capital costs, financing costs, operation and maintenance costs, decommissioning costs, and variable costs including fuel.

(8) "Life-cycle cost model" means that portion of a capital asset inventory system which, among other things, is used to estimate future preservation needs.

(9) "Maintenance cost" has the same meaning as used in budget instructions developed by the office of financial management.

(10) "Preservation project" has the same meaning as used in budget instructions developed by the office of financial management.

(11) "Route" means all ferry sailings from one location to another, such as the Seattle to Bainbridge route or the Port Townsend to Keystone route.

(12) "Sailing" means an individual ferry sailing for a specific route, such as the 5:00 p.m. sailing from Seattle to Bremerton.

(13) "Travel shed" means one or more ferry routes with distinct characteristics as determined by the department.

(14) "Washington state ferries" means the ferry division within the department, as described in RCW 47.60.015.

Passed by the Senate March 1, 2023.
Passed by the House April 10, 2023.
Approved by the Governor April 25, 2023.
Filed in Office of Secretary of State April 26, 2023.

CHAPTER 189

[Substitute Senate Bill 5561]

LAW ENFORCEMENT COMMUNITY ENGAGEMENT GRANT PROJECT—EXPANSION

AN ACT Relating to extending the expiration date of the law enforcement community engagement grant project; amending RCW 43.330.545; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 43.330.545 and 2021 c 327 s 2 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, a project is created in the department to foster community engagement through neighborhood organizing, law enforcement-community partnerships, youth mobilization, and business engagement. The department shall administer the project. The project must include ((~~12 to 15 grant awards in those counties that have demonstrated their commitment to programs that promote community engagement in public safety including the following counties: Spokane, Pierce, King, Okanogan, Yakima, Cowlitz, Clark, Chelan-Douglas, Walla Walla, Benton-Franklin, Grant, and Snohomish~~)) funding for programs delivering services in a range of rural and urban counties across Washington.

(2) The department shall adopt policies and procedures necessary to administer the project including: (a) An application process; (b) disbursement of the grant award to selected applicants; (c) tracking compliance and proper use of funds; and (d) measuring outcomes.

(3) Eligible applicants must:

(a) Be a public agency or nongovernmental organization;

(b) Have demonstrated experience with community engagement initiatives that impact public safety;

(c) ((~~Have~~)) Include community engagement in their services;

(d) Have established or be willing to establish a coordinated effort with committed partners, which must include law enforcement and organizations committed to diversity, equity, and inclusion of community members, including organizations whose leadership specifically reflects the communities most impacted by racism; and

(e) Have established priorities, policies, and measurable goals in compliance with the requirements of the project as provided in subsection (5) of this section.

(4) A law enforcement agency applying for a grant award shall not beconsidered an eligible applicant unless there are no other eligibleapplicants from the community or county the law enforcement agencyserves.

(5) The grant recipient shall:

(a) Lead and facilitate neighborhood organizing initiatives, including:

(i) Empowering community members with tools, skills, confidence, and connections to identify, eradicate, and prevent illegal activity;

(ii) Making neighborhood improvements to deter future criminal activity; ((~~and~~)) or

(iii) Educating community members regarding how to connect with city, county, and law enforcement resources;

(b) Build substantive law enforcement-community partnerships, including:

(i) Building trust between community members and law enforcement by facilitating purposeful antiracist practices and the development of policies that lead to equal treatment under the law;

(ii) Establishing clear expectations for law enforcement to be competent to practice fair and equitable treatment including facilitating dialogue between law enforcement and community members to increase understanding of the impact of historical racist practices and current conflicts;

(iii) Community members regularly informing law enforcement, through presentations, workshops, or forums, on community perceptions of law enforcement and public safety issues;

(iv) Educating community members on the role and function of law enforcement in the community;

(v) Clarifying expectations of law enforcement and of the role of the community in crime prevention;

(vi) Educating community members on the best practices for reporting emergency and nonemergency activities;

(vii) Recognizing community members for effective engagement and community leadership; and

(viii) Recognizing law enforcement officials for efforts to engage underrepresented communities, improve community engagement and empowerment, and reform law enforcement practices;

(c) Mobilize youth to partner with neighborhood groups and law enforcement to prevent violence by:

(i) Helping them develop knowledge and skills to serve as leaders in their communities;

(ii) Focusing on prevention of violence and substance abuse; ((~~and~~)) or

(iii) Empowering youth to bring their voice to community issues that impact healthy police-community relations;

(d) Engage businesses to help prevent crimes, such as vandalism and burglaries, through safety training and other prevention initiatives;

(e) Provide training and technical assistance on how to implement community engagement, improving law enforcement and community partnership, youth engagement, and business engagement;

(f) Identify and maintain consistent, experienced, and committed leadership for managing the grant, including an administrator who acts as an available point of contact with the department; and

(g) Collect and report data and information required by the department.

(6) The department shall, in consultation with the Washington state institute for public policy, develop reporting guidelines for the grant recipients ((~~in order~~)) to measure whether the ((~~safe streets pilot~~)) project had an impact on crime rates and community engagement with, and perceptions of, law enforcement. ((~~The department shall submit a preliminary report to the legislature with details on the selected grant recipients and the reporting guidelines by January 1, 2022. The department shall submit a final report on the safe streets pilot project, including an analysis of the reported data required under this subsection, by December 1, 2023.~~)) The department shall report to the appropriate legislative policy committees by December 1st every odd-numbered year with details on the implementation of the project and the outcomes of the reported data and information.

(7) This section expires January 1, ((~~2024~~)) 2029.

Passed by the Senate March 7, 2023.

Passed by the House April 10, 2023.

Approved by the Governor April 25, 2023.

Filed in Office of Secretary of State April 26, 2023.

CHAPTER 190

[Substitute Senate Bill 5687]

POSTSECONDARY WRESTLING GRANT PROGRAM

AN ACT Relating to creating and supporting postsecondary wrestling grant programs; adding a new section to chapter 28B.77 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 28B.77 RCW to read as follows:

(1) Subject to availability of amounts appropriated for this specific purpose, the postsecondary wrestling grant program is created. The purpose of the postsecondary wrestling grant program is to provide funding to institutions of higher education to establish or maintain intercollegiate wrestling programs.

(2) The council shall administer the postsecondary wrestling grant program and award grants, based on a competitive grant process. The council shall establish minimum criteria for institutions of higher education to be awarded a grant.

(3) Grant funds may be allocated on a one-time or once every four-year basis dependent on the needs of the program and may be used for purposes including, but not limited to, support of one-time start-up costs, equipment, and student scholarships.

(4) For purposes of this section, "institutions of higher education" has the same meaning as in RCW 28B.10.016.

NEW SECTION. **Sec. 2.** This act may be known and cited as the Charles Cate II act.

Passed by the Senate March 2, 2023.
Passed by the House April 12, 2023.
Approved by the Governor April 25, 2023.
Filed in Office of Secretary of State April 26, 2023.

CHAPTER 191

[Engrossed Substitute House Bill 1155]

CONSUMER HEALTH DATA

AN ACT Relating to the collection, sharing, and selling of consumer health data; adding a new section to chapter 44.28 RCW; adding a new chapter to Title 19 RCW; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** This act may be known and cited as the Washington my health my data act.

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

(2) Information related to an individual's health conditions or attempts to obtain health care services is among the most personal and sensitive categories

of data collected. Washingtonians expect that their health data is protected under laws like the health information portability and accountability act (HIPAA). However, HIPAA only covers health data collected by specific health care entities, including most health care providers. Health data collected by noncovered entities, including certain apps and websites, are not afforded the same protections. This act works to close the gap between consumer knowledge and industry practice by providing stronger privacy protections for all Washington consumers' health data.

(3) With this act, the legislature intends to provide heightened protections for Washingtonian's health data by: Requiring additional disclosures and consumer consent regarding the collection, sharing, and use of such information; empowering consumers with the right to have their health data deleted; prohibiting the selling of consumer health data without valid authorization signed by the consumer; and making it unlawful to utilize a geofence around a facility that provides health care services.

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

(1) "Abortion" means the termination of a pregnancy for purposes other than producing a live birth.

(2) "Affiliate" means a legal entity that shares common branding with another legal entity and controls, is controlled by, or is under common control with another legal entity. For the purposes of this definition, "control" or "controlled" means:

(a) Ownership of, or the power to vote, more than 50 percent of the outstanding shares of any class of voting security of a company;

(b) Control in any manner over the election of a majority of the directors or of individuals exercising similar functions; or

(c) The power to exercise controlling influence over the management of a company.

(3) "Authenticate" means to use reasonable means to determine that a request to exercise any of the rights afforded in this chapter is being made by, or on behalf of, the consumer who is entitled to exercise such consumer rights with respect to the consumer health data at issue.

(4) "Biometric data" means data that is generated from the measurement or technological processing of an individual's physiological, biological, or behavioral characteristics and that identifies a consumer, whether individually or in combination with other data. Biometric data includes, but is not limited to:

(a) Imagery of the iris, retina, fingerprint, face, hand, palm, vein patterns, and voice recordings, from which an identifier template can be extracted; or

(b) Keystroke patterns or rhythms and gait patterns or rhythms that contain identifying information.

(5) "Collect" means to buy, rent, access, retain, receive, acquire, infer, derive, or otherwise process consumer health data in any manner.

(6)(a) "Consent" means a clear affirmative act that signifies a consumer's freely given, specific, informed, opt-in, voluntary, and unambiguous agreement, which may include written consent provided by electronic means.

(b) "Consent" may not be obtained by:

(i) A consumer's acceptance of a general or broad terms of use agreement or a similar document that contains descriptions of personal data processing along with other unrelated information;

(ii) A consumer hovering over, muting, pausing, or closing a given piece of content; or

(iii) A consumer's agreement obtained through the use of deceptive designs.

(7) "Consumer" means (a) a natural person who is a Washington resident; or (b) a natural person whose consumer health data is collected in Washington. "Consumer" means a natural person who acts only in an individual or household context, however identified, including by any unique identifier. "Consumer" does not include an individual acting in an employment context.

(8)(a) "Consumer health data" means personal information that is linked or reasonably linkable to a consumer and that identifies the consumer's past, present, or future physical or mental health status.

(b) For the purposes of this definition, physical or mental health status includes, but is not limited to:

(i) Individual health conditions, treatment, diseases, or diagnosis;

(ii) Social, psychological, behavioral, and medical interventions;

(iii) Health-related surgeries or procedures;

(iv) Use or purchase of prescribed medication;

(v) Bodily functions, vital signs, symptoms, or measurements of the information described in this subsection (8)(b);

(vi) Diagnoses or diagnostic testing, treatment, or medication;

(vii) Gender-affirming care information;

(viii) Reproductive or sexual health information;

(ix) Biometric data;

(x) Genetic data;

(xi) Precise location information that could reasonably indicate a consumer's attempt to acquire or receive health services or supplies;

(xii) Data that identifies a consumer seeking health care services; or

(xiii) Any information that a regulated entity or a small business, or their respective processor, processes to associate or identify a consumer with the data described in (b)(i) through (xii) of this subsection that is derived or extrapolated from nonhealth information (such as proxy, derivative, inferred, or emergent data by any means, including algorithms or machine learning).

(c) "Consumer health data" does not include personal information that is used to engage in public or peer-reviewed scientific, historical, or statistical research in the public interest that adheres to all other applicable ethics and privacy laws and is approved, monitored, and governed by an institutional review board, human subjects research ethics review board, or a similar independent oversight entity that determines that the regulated entity or the small business has implemented reasonable safeguards to mitigate privacy risks associated with research, including any risks associated with reidentification.

(9) "Deceptive design" means a user interface designed or manipulated with the effect of subverting or impairing user autonomy, decision making, or choice.

(10) "Deidentified data" means data that cannot reasonably be used to infer information about, or otherwise be linked to, an identified or identifiable consumer, or a device linked to such consumer, if the regulated entity or the small business that possesses such data (a) takes reasonable measures to ensure

that such data cannot be associated with a consumer; (b) publicly commits to process such data only in a deidentified fashion and not attempt to reidentify such data; and (c) contractually obligates any recipients of such data to satisfy the criteria set forth in this subsection (10).

(11) "Gender-affirming care information" means personal information relating to seeking or obtaining past, present, or future gender-affirming care services. "Gender-affirming care information" includes, but is not limited to:

(a) Precise location information that could reasonably indicate a consumer's attempt to acquire or receive gender-affirming care services;

(b) Efforts to research or obtain gender-affirming care services; or

(c) Any gender-affirming care information that is derived, extrapolated, or inferred, including from nonhealth information, such as proxy, derivative, inferred, emergent, or algorithmic data.

(12) "Gender-affirming care services" means health services or products that support and affirm an individual's gender identity including, but not limited to, social, psychological, behavioral, cosmetic, medical, or surgical interventions. "Gender-affirming care services" includes, but is not limited to, treatments for gender dysphoria, gender-affirming hormone therapy, and gender-affirming surgical procedures.

(13) "Genetic data" means any data, regardless of its format, that concerns a consumer's genetic characteristics. "Genetic data" includes, but is not limited to:

(a) Raw sequence data that result from the sequencing of a consumer's complete extracted deoxyribonucleic acid (DNA) or a portion of the extracted DNA;

(b) Genotypic and phenotypic information that results from analyzing the raw sequence data; and

(c) Self-reported health data that a consumer submits to a regulated entity or a small business and that is analyzed in connection with consumer's raw sequence data.

(14) "Geofence" means technology that uses global positioning coordinates, cell tower connectivity, cellular data, radio frequency identification, Wifi data, and/or any other form of spatial or location detection to establish a virtual boundary around a specific physical location, or to locate a consumer within a virtual boundary. For purposes of this definition, "geofence" means a virtual boundary that is 2,000 feet or less from the perimeter of the physical location.

(15) "Health care services" means any service provided to a person to assess, measure, improve, or learn about a person's mental or physical health, including but not limited to:

(a) Individual health conditions, status, diseases, or diagnoses;

(b) Social, psychological, behavioral, and medical interventions;

(c) Health-related surgeries or procedures;

(d) Use or purchase of medication;

(e) Bodily functions, vital signs, symptoms, or measurements of the information described in this subsection;

(f) Diagnoses or diagnostic testing, treatment, or medication;

(g) Reproductive health care services; or

(h) Gender-affirming care services.

(16) "Homepage" means the introductory page of an internet website and any internet webpage where personal information is collected. In the case of an

online service, such as a mobile application, homepage means the application's platform page or download page, and a link within the application, such as from the application configuration, "about," "information," or settings page.

(17) "Person" means, where applicable, natural persons, corporations, trusts, unincorporated associations, and partnerships. "Person" does not include government agencies, tribal nations, or contracted service providers when processing consumer health data on behalf of a government agency.

(18)(a) "Personal information" means information that identifies or is reasonably capable of being associated or linked, directly or indirectly, with a particular consumer. "Personal information" includes, but is not limited to, data associated with a persistent unique identifier, such as a cookie ID, an IP address, a device identifier, or any other form of persistent unique identifier.

(b) "Personal information" does not include publicly available information.

(c) "Personal information" does not include deidentified data.

(19) "Precise location information" means information derived from technology including, but not limited to, global positioning system level latitude and longitude coordinates or other mechanisms, that directly identifies the specific location of an individual with precision and accuracy within a radius of 1,750 feet. "Precise location information" does not include the content of communications, or any data generated by or connected to advanced utility metering infrastructure systems or equipment for use by a utility.

(20) "Process" or "processing" means any operation or set of operations performed on consumer health data.

(21) "Processor" means a person that processes consumer health data on behalf of a regulated entity or a small business.

(22) "Publicly available information" means information that (a) is lawfully made available through federal, state, or municipal government records or widely distributed media, and (b) a regulated entity or a small business has a reasonable basis to believe a consumer has lawfully made available to the general public. "Publicly available information" does not include any biometric data collected about a consumer by a business without the consumer's consent.

(23) "Regulated entity" means any legal entity that: (a) Conducts business in Washington, or produces or provides products or services that are targeted to consumers in Washington; and (b) alone or jointly with others, determines the purpose and means of collecting, processing, sharing, or selling of consumer health data. "Regulated entity" does not mean government agencies, tribal nations, or contracted service providers when processing consumer health data on behalf of the government agency.

(24) "Reproductive or sexual health information" means personal information relating to seeking or obtaining past, present, or future reproductive or sexual health services. "Reproductive or sexual health information" includes, but is not limited to:

(a) Precise location information that could reasonably indicate a consumer's attempt to acquire or receive reproductive or sexual health services;

(b) Efforts to research or obtain reproductive or sexual health services; or

(c) Any reproductive or sexual health information that is derived, extrapolated, or inferred, including from nonhealth information (such as proxy, derivative, inferred, emergent, or algorithmic data).

(25) "Reproductive or sexual health services" means health services or products that support or relate to a consumer's reproductive system or sexual well-being, including but not limited to:

(a) Individual health conditions, status, diseases, or diagnoses;

(b) Social, psychological, behavioral, and medical interventions;

(c) Health-related surgeries or procedures including, but not limited to, abortions;

(d) Use or purchase of medication including, but not limited to, medications for the purposes of abortion;

(e) Bodily functions, vital signs, symptoms, or measurements of the information described in this subsection;

(f) Diagnoses or diagnostic testing, treatment, or medication; and

(g) Medical or nonmedical services related to and provided in conjunction with an abortion, including but not limited to associated diagnostics, counseling, supplies, and follow-up services.

(26)(a) "Sell" or "sale" means the exchange of consumer health data for monetary or other valuable consideration.

(b) "Sell" or "sale" does not include the exchange of consumer health data for monetary or other valuable consideration:

(i) To a third party as an asset that is part of a merger, acquisition, bankruptcy, or other transaction in which the third party assumes control of all or part of the regulated entity's or the small business's assets that complies with the requirements and obligations in this chapter; or

(ii) By a regulated entity or a small business to a processor when such exchange is consistent with the purpose for which the consumer health data was collected and disclosed to the consumer.

(27)(a) "Share" or "sharing" means to release, disclose, disseminate, divulge, make available, provide access to, license, or otherwise communicate orally, in writing, or by electronic or other means, consumer health data by a regulated entity or a small business to a third party or affiliate.

(b) The term "share" or "sharing" does not include:

(i) The disclosure of consumer health data by a regulated entity or a small business to a processor when such sharing is to provide goods or services in a manner consistent with the purpose for which the consumer health data was collected and disclosed to the consumer;

(ii) The disclosure of consumer health data to a third party with whom the consumer has a direct relationship when: (A) The disclosure is for purposes of providing a product or service requested by the consumer; (B) the regulated entity or the small business maintains control and ownership of the data; and (C) the third party uses the consumer health data only at direction from the regulated entity or the small business and consistent with the purpose for which it was collected and consented to by the consumer; or

(iii) The disclosure or transfer of personal data to a third party as an asset that is part of a merger, acquisition, bankruptcy, or other transaction in which the third party assumes control of all or part of the regulated entity's or the small business's assets and complies with the requirements and obligations in this chapter.

(28) "Small business" means a regulated entity that satisfies one or both of the following thresholds:

(a) Collects, processes, sells, or shares consumer health data of fewer than 100,000 consumers during a calendar year; or

(b) Derives less than 50 percent of gross revenue from the collection, processing, selling, or sharing of consumer health data, and controls, processes, sells, or shares consumer health data of fewer than 25,000 consumers.

(29) "Third party" means an entity other than a consumer, regulated entity, processor, small business, or affiliate of the regulated entity or the small business.

NEW SECTION. **Sec. 4.** (1)(a) Except as provided in subsection (2) of this section, beginning March 31, 2024, a regulated entity and a small business shall maintain a consumer health data privacy policy that clearly and conspicuously discloses:

(i) The categories of consumer health data collected and the purpose for which the data is collected, including how the data will be used;

(ii) The categories of sources from which the consumer health data is collected;

(iii) The categories of consumer health data that is shared;

(iv) A list of the categories of third parties and specific affiliates with whom the regulated entity or the small business shares the consumer health data; and

(v) How a consumer can exercise the rights provided in section 6 of this act.

(b) A regulated entity and a small business shall prominently publish a link to its consumer health data privacy policy on its homepage.

(c) A regulated entity or a small business may not collect, use, or share additional categories of consumer health data not disclosed in the consumer health data privacy policy without first disclosing the additional categories and obtaining the consumer's affirmative consent prior to the collection, use, or sharing of such consumer health data.

(d) A regulated entity or a small business may not collect, use, or share consumer health data for additional purposes not disclosed in the consumer health data privacy policy without first disclosing the additional purposes and obtaining the consumer's affirmative consent prior to the collection, use, or sharing of such consumer health data.

(e) It is a violation of this chapter for a regulated entity or a small business to contract with a processor to process consumer health data in a manner that is inconsistent with the regulated entity's or the small business's consumer health data privacy policy.

(2) A small business must comply with this section beginning June 30, 2024.

NEW SECTION. **Sec. 5.** (1)(a) Except as provided in subsection (2) of this section, beginning March 31, 2024, a regulated entity or a small business may not collect any consumer health data except:

(i) With consent from the consumer for such collection for a specified purpose; or

(ii) To the extent necessary to provide a product or service that the consumer to whom such consumer health data relates has requested from such regulated entity or small business.

(b) A regulated entity or a small business may not share any consumer health data except:

(i) With consent from the consumer for such sharing that is separate and distinct from the consent obtained to collect consumer health data; or

(ii) To the extent necessary to provide a product or service that the consumer to whom such consumer health data relates has requested from such regulated entity or small business.

(c) Consent required under this section must be obtained prior to the collection or sharing, as applicable, of any consumer health data, and the request for consent must clearly and conspicuously disclose: (i) The categories of consumer health data collected or shared; (ii) the purpose of the collection or sharing of the consumer health data, including the specific ways in which it will be used; (iii) the categories of entities with whom the consumer health data is shared; and (iv) how the consumer can withdraw consent from future collection or sharing of the consumer's health data.

(d) A regulated entity or a small business may not unlawfully discriminate against a consumer for exercising any rights included in this chapter.

(2) A small business must comply with this section beginning June 30, 2024.

NEW SECTION. **Sec. 6.** (1)(a) Except as provided in subsection (2) of this section, beginning March 31, 2024, a consumer has the right to confirm whether a regulated entity or a small business is collecting, sharing, or selling consumer health data concerning the consumer and to access such data, including a list of all third parties and affiliates with whom the regulated entity or the small business has shared or sold the consumer health data and an active email address or other online mechanism that the consumer may use to contact these third parties.

(b) A consumer has the right to withdraw consent from the regulated entity's or the small business's collection and sharing of consumer health data concerning the consumer.

(c) A consumer has the right to have consumer health data concerning the consumer deleted and may exercise that right by informing the regulated entity or the small business of the consumer's request for deletion.

(i) A regulated entity or a small business that receives a consumer's request to delete any consumer health data concerning the consumer shall:

(A) Delete the consumer health data from its records, including from all parts of the regulated entity's or the small business's network, including archived or backup systems pursuant to (c)(iii) of this subsection; and

(B) Notify all affiliates, processors, contractors, and other third parties with whom the regulated entity or the small business has shared consumer health data of the deletion request.

(ii) All affiliates, processors, contractors, and other third parties that receive notice of a consumer's deletion request shall honor the consumer's deletion request and delete the consumer health data from its records, subject to the same requirements of this chapter.

(iii) If consumer health data that a consumer requests to be deleted is stored on archived or backup systems, then the request for deletion may be delayed to enable restoration of the archived or backup systems and such delay may not exceed six months from authenticating the deletion request.

(d) A consumer may exercise the rights set forth in this chapter by submitting a request, at any time, to a regulated entity or a small business. Such

a request may be made by a secure and reliable means established by the regulated entity or the small business and described in its consumer health data privacy policy. The method must take into account the ways in which consumers normally interact with the regulated entity or the small business, the need for secure and reliable communication of such requests, and the ability of the regulated entity or the small business to authenticate the identity of the consumer making the request. A regulated entity or a small business may not require a consumer to create a new account in order to exercise consumer rights pursuant to this chapter but may require a consumer to use an existing account.

(e) If a regulated entity or a small business is unable to authenticate the request using commercially reasonable efforts, the regulated entity or the small business is not required to comply with a request to initiate an action under this section and may request that the consumer provide additional information reasonably necessary to authenticate the consumer and the consumer's request.

(f) Information provided in response to a consumer request must be provided by a regulated entity and a small business free of charge, up to twice annually per consumer. If requests from a consumer are manifestly unfounded, excessive, or repetitive, the regulated entity or the small business may charge the consumer a reasonable fee to cover the administrative costs of complying with the request or decline to act on the request. The regulated entity and the small business bear the burden of demonstrating the manifestly unfounded, excessive, or repetitive nature of the request.

(g) A regulated entity and a small business shall comply with the consumer's requests under subsection (1)(a) through (c) of this section without undue delay, but in all cases within 45 days of receipt of the request submitted pursuant to the methods described in this section. A regulated entity and a small business must promptly take steps to authenticate a consumer request but this does not extend the regulated entity's and the small business's duty to comply with the consumer's request within 45 days of receipt of the consumer's request. The response period may be extended once by 45 additional days when reasonably necessary, taking into account the complexity and number of the consumer's requests, so long as the regulated entity or the small business informs the consumer of any such extension within the initial 45-day response period, together with the reason for the extension.

(h) A regulated entity and a small business shall establish a process for a consumer to appeal the regulated entity's or the small business's refusal to take action on a request within a reasonable period of time after the consumer's receipt of the decision. The appeal process must be conspicuously available and similar to the process for submitting requests to initiate action pursuant to this section. Within 45 days of receipt of an appeal, a regulated entity or a small business shall inform the consumer in writing of any action taken or not taken in response to the appeal, including a written explanation of the reasons for the decisions. If the appeal is denied, the regulated entity or the small business shall also provide the consumer with an online mechanism, if available, or other method through which the consumer may contact the attorney general to submit a complaint.

(2) A small business must comply with this section beginning June 30, 2024.

NEW SECTION. **Sec. 7.** (1) Except as provided in subsection (2) of this section, beginning March 31, 2024, a regulated entity and a small business shall:

(a) Restrict access to consumer health data by the employees, processors, and contractors of such regulated entity or small business to only those employees, processors, and contractors for which access is necessary to further the purposes for which the consumer provided consent or where necessary to provide a product or service that the consumer to whom such consumer health data relates has requested from such regulated entity or small business; and

(b) Establish, implement, and maintain administrative, technical, and physical data security practices that, at a minimum, satisfy reasonable standard of care within the regulated entity's or the small business's industry to protect the confidentiality, integrity, and accessibility of consumer health data appropriate to the volume and nature of the consumer health data at issue.

(2) A small business must comply with this section beginning June 30, 2024.

NEW SECTION. **Sec. 8.** (1)(a)(i) Except as provided in subsection (2) of this section, beginning March 31, 2024, a processor may process consumer health data only pursuant to a binding contract between the processor and the regulated entity or the small business that sets forth the processing instructions and limit the actions the processor may take with respect to the consumer health data it processes on behalf of the regulated entity or the small business.

(ii) A processor may process consumer health data only in a manner that is consistent with the binding instructions set forth in the contract with the regulated entity or the small business.

(b) A processor shall assist the regulated entity or the small business by appropriate technical and organizational measures, insofar as this is possible, in fulfilling the regulated entity's and the small business's obligations under this chapter.

(c) If a processor fails to adhere to the regulated entity's or the small business's instructions or processes consumer health data in a manner that is outside the scope of the processor's contract with the regulated entity or the small business, the processor is considered a regulated entity or a small business with regard to such data and is subject to all the requirements of this chapter with regard to such data.

(2) A small business must comply with this section beginning June 30, 2024.

NEW SECTION. **Sec. 9.** (1) Except as provided in subsection (6) of this section, beginning March 31, 2024, it is unlawful for any person to sell or offer to sell consumer health data concerning a consumer without first obtaining valid authorization from the consumer. The sale of consumer health data must be consistent with the valid authorization signed by the consumer. This authorization must be separate and distinct from the consent obtained to collect or share consumer health data, as required under section 5 of this act.

(2) A valid authorization to sell consumer health data is a document consistent with this section and must be written in plain language. The valid authorization to sell consumer health data must contain the following:

(a) The specific consumer health data concerning the consumer that the person intends to sell;

(b) The name and contact information of the person collecting and selling the consumer health data;

(c) The name and contact information of the person purchasing the consumer health data from the seller identified in (b) of this subsection;

(d) A description of the purpose for the sale, including how the consumer health data will be gathered and how it will be used by the purchaser identified in (c) of this subsection when sold;

(e) A statement that the provision of goods or services may not be conditioned on the consumer signing the valid authorization;

(f) A statement that the consumer has a right to revoke the valid authorization at any time and a description on how to submit a revocation of the valid authorization;

(g) A statement that the consumer health data sold pursuant to the valid authorization may be subject to redisclosure by the purchaser and may no longer be protected by this section;

(h) An expiration date for the valid authorization that expires one year from when the consumer signs the valid authorization; and

(i) The signature of the consumer and date.

(3) An authorization is not valid if the document has any of the following defects:

(a) The expiration date has passed;

(b) The authorization does not contain all the information required under this section;

(c) The authorization has been revoked by the consumer;

(d) The authorization has been combined with other documents to create a compound authorization; or

(e) The provision of goods or services is conditioned on the consumer signing the authorization.

(4) A copy of the signed valid authorization must be provided to the consumer.

(5) The seller and purchaser of consumer health data must retain a copy of all valid authorizations for sale of consumer health data for six years from the date of its signature or the date when it was last in effect, whichever is later.

(6) A small business must comply with this section beginning June 30, 2024.

NEW SECTION. **Sec. 10.** It is unlawful for any person to implement a geofence around an entity that provides in-person health care services where such geofence is used to: (1) Identify or track consumers seeking health care services; (2) collect consumer health data from consumers; or (3) send notifications, messages, or advertisements to consumers related to their consumer health data or health care services.

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

NEW SECTION. **Sec. 12.** (1) This chapter does not apply to:

(a) Information that meets the definition of:

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

(ii) Health care information collected, used, or disclosed in accordance with chapter 70.02 RCW;

(iii) Patient identifying information collected, used, or disclosed in accordance with 42 C.F.R. Part 2, established pursuant to 42 U.S.C. Sec. 290dd-2;

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

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

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

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

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

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

(E) A manufacturer, as defined in 21 C.F.R. Sec. 820.3(o), when collected, used, or disclosed for purposes specified in chapter 70.02 RCW;

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

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

(viii) Information that is (A) deidentified in accordance with the requirements for deidentification set forth in 45 C.F.R. Part 164, and (B) derived from any of the health care-related information listed in this subsection (1)(a)(viii);

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

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

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

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

(c) Information used only for public health activities and purposes as described in 45 C.F.R. Sec. 164.512 or that is part of a limited data set, as defined, and is used, disclosed, and maintained in the manner required, by 45 C.F.R. Sec. 164.514; or

(d) Identifiable data collected, used, or disclosed in accordance with chapter 43.371 RCW or RCW 69.43.165.

(2) Personal information that is governed by and collected, used, or disclosed pursuant to the following regulations, parts, titles, or acts, is exempt from this chapter: (a) The Gramm-Leach-Bliley act (15 U.S.C. 6801 et seq.) and implementing regulations; (b) part C of Title XI of the social security act (42 U.S.C. 1320d et seq.); (c) the fair credit reporting act (15 U.S.C. 1681 et seq.); (d) the family educational rights and privacy act (20 U.S.C. 1232g; Part 99 of Title 34, C.F.R.); (e) the Washington health benefit exchange and applicable statutes and regulations, including 45 C.F.R. Sec. 155.260 and chapter 43.71 RCW; or (f) privacy rules adopted by the office of the insurance commissioner pursuant to chapter 48.02 or 48.43 RCW.

(3) The obligations imposed on regulated entities, small businesses, and processors under this chapter does not restrict a regulated entity's, small business's, or processor's ability for collection, use, or disclosure of consumer health data to prevent, detect, protect against, or respond to security incidents, identity theft, fraud, harassment, malicious or deceptive activities, or any activity that is illegal under Washington state law or federal law; preserve the integrity or security of systems; or investigate, report, or prosecute those responsible for any such action that is illegal under Washington state law or federal law.

(4) If a regulated entity, small business, or processor processes consumer health data pursuant to subsection (3) of this section, such entity bears the burden of demonstrating that such processing qualifies for the exemption and complies with the requirements of this section.

NEW SECTION. **Sec. 13.** A new section is added to chapter 44.28 RCW to read as follows:

(1) The joint committee must review enforcement actions, as authorized in section 11 of this act, brought by the attorney general and consumers to enforce violations of this act.

(2) The report must include, at a minimum:

(a) The number of enforcement actions reported by the attorney general, a consumer, a regulated entity, or a small business that resulted in a settlement, including the average settlement amount;

(b) The number of complaints reported, including categories of complaints and the number of complaints for each category, reported by the attorney general, a consumer, a regulated entity, or a small business;

(c) The number of enforcement actions brought by the attorney general and consumers, including the categories of violations and the number of violations per category;

(e) The number of civil actions where a judge determined the position of the nonprevailing party was frivolous, if any;

(f) The types of resources, including associated costs, expended by the attorney general, a consumer, a regulated entity, or a small business for enforcement actions; and

(g) Recommendations for potential changes to enforcement provisions of this act.

(3) The office of the attorney general shall provide the joint committee any data within their purview that the joint committee considers necessary to conduct the review.

(4) The joint committee shall submit a report of its findings and recommendations to the governor and the appropriate committees of the legislature by September 30, 2030.

(5) This section expires June 30, 2031.

NEW SECTION. **Sec. 14.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 15.** Sections 1 through 12 of this act constitute a new chapter in Title 19 RCW.

Passed by the House April 17, 2023.
Passed by the Senate April 5, 2023.
Approved by the Governor April 27, 2023.
Filed in Office of Secretary of State April 27, 2023.

CHAPTER 192

[Engrossed Substitute House Bill 1340]

HEALTH CARE PROVIDERS—REPRODUCTIVE HEALTH CARE SERVICES AND GENDER AFFIRMING TREATMENT—UNIFORM DISCIPLINARY ACT

AN ACT Relating to actions by health professions disciplining authorities against license applicants and license holders for providing reproductive health care services or gender affirming treatment; amending RCW 18.130.180; reenacting and amending RCW 18.130.055; adding a new section to chapter 18.130 RCW; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 18.130.055 and 2019 c 446 s 46 and 2019 c 444 s 24 are each reenacted and amended to read as follows:

(1) The disciplining authority may deny an application for licensure or grant a license with conditions if the applicant:

(a) Has had his or her license to practice any health care profession suspended, revoked, or restricted, by competent authority in any state, federal, or foreign jurisdiction, except as provided in section 3 of this act;

(b) Has committed any act defined as unprofessional conduct for a license holder under RCW 18.130.180, except as provided in RCW 9.97.020 and section 3 of this act;

(c) Has been convicted or is subject to current prosecution or pending charges of a crime involving moral turpitude or a crime identified in RCW 43.43.830, except as provided in RCW 9.97.020, 18.205.097, and 18.19.095. For purposes of this section, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the prosecution or sentence has been deferred or suspended. At the request of an applicant for an original license whose conviction is under appeal, the disciplining authority may defer decision upon the application during the pendency of such a prosecution or appeal;

(d) Fails to prove that he or she is qualified in accordance with the provisions of this chapter, the chapters identified in RCW 18.130.040(2), or the rules adopted by the disciplining authority; or

(e) Is not able to practice with reasonable skill and safety to consumers by reason of any mental or physical condition.

(i) The disciplining authority may require the applicant, at his or her own expense, to submit to a mental, physical, or psychological examination by one or more licensed health professionals designated by the disciplining authority. The disciplining authority shall provide written notice of its requirement for a mental or physical examination that includes a statement of the specific conduct, event, or circumstances justifying an examination and a statement of the nature, purpose, scope, and content of the intended examination. If the applicant fails to submit to the examination or provide the results of the examination or any required waivers, the disciplining authority may deny the application.

(ii) An applicant governed by this chapter is deemed to have given consent to submit to a mental, physical, or psychological examination when directed in writing by the disciplining authority and further to have waived all objections to the admissibility or use of the examining health professional's testimony or examination reports by the disciplining authority on the grounds that the testimony or reports constitute privileged communications.

(2) The provisions of RCW 9.95.240 and chapter 9.96A RCW do not apply to a decision to deny a license under this section.

(3) The disciplining authority shall give written notice to the applicant of the decision to deny a license or grant a license with conditions in response to an application for a license. The notice must state the grounds and factual basis for the action and be served upon the applicant.

(4) A license applicant who is aggrieved by the decision to deny the license or grant the license with conditions has the right to an adjudicative proceeding. The application for adjudicative proceeding must be in writing, state the basis for contesting the adverse action, include a copy of the adverse notice, and be served on and received by the department within twenty-eight days of the decision. The license applicant has the burden to establish, by a preponderance of evidence, that the license applicant is qualified in accordance with the provisions of this chapter, the chapters identified in RCW 18.130.040(2), and the rules adopted by the disciplining authority.

Sec. 2. RCW 18.130.180 and 2021 c 157 s 7 are each amended to read as follows:

((~~The~~)) Except as provided in section 3 of this act, the following conduct, acts, or conditions constitute unprofessional conduct for any license holder under the jurisdiction of this chapter:

(1) The commission of any act involving moral turpitude, dishonesty, or corruption relating to the practice of the person's profession, whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon such a conviction, however, the judgment and sentence is conclusive evidence at the ensuing disciplinary hearing of the guilt of the license holder of the crime described in the indictment or information, and of the person's violation of the statute on which it is based. For the purposes of this section, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

(2) Misrepresentation or concealment of a material fact in obtaining a license or in reinstatement thereof;

(3) All advertising which is false, fraudulent, or misleading;

(4) Incompetence, negligence, or malpractice which results in injury to a patient or which creates an unreasonable risk that a patient may be harmed. The use of a nontraditional treatment by itself shall not constitute unprofessional conduct, provided that it does not result in injury to a patient or create an unreasonable risk that a patient may be harmed;

(5) Suspension, revocation, or restriction of the individual's license to practice any health care profession by competent authority in any state, federal, or foreign jurisdiction, a certified copy of the order, stipulation, or agreement being conclusive evidence of the revocation, suspension, or restriction;

(6) ((~~Except when authorized by RCW 18.130.345, the~~)) The possession, use, prescription for use, or distribution of controlled substances or legend drugs in any way other than for legitimate or therapeutic purposes, diversion of controlled substances or legend drugs, the violation of any drug law, or prescribing controlled substances for oneself;

(7) Violation of any state or federal statute or administrative rule regulating the profession in question, including any statute or rule defining or establishing standards of patient care or professional conduct or practice;

(8) Failure to cooperate with the disciplining authority by:

(a) Not furnishing any papers, documents, records, or other items;

(b) Not furnishing in writing a full and complete explanation covering the matter contained in the complaint filed with the disciplining authority;

(c) Not responding to subpoenas issued by the disciplining authority, whether or not the recipient of the subpoena is the accused in the proceeding; or

(d) Not providing reasonable and timely access for authorized representatives of the disciplining authority seeking to perform practice reviews at facilities utilized by the license holder;

(9) Failure to comply with an order issued by the disciplining authority or a stipulation for informal disposition entered into with the disciplining authority;

(10) Aiding or abetting an unlicensed person to practice when a license is required;

(11) Violations of rules established by any health agency;

(12) Practice beyond the scope of practice as defined by law or rule;

(13) Misrepresentation or fraud in any aspect of the conduct of the business or profession;

(14) Failure to adequately supervise auxiliary staff to the extent that the consumer's health or safety is at risk;

(15) Engaging in a profession involving contact with the public while suffering from a contagious or infectious disease involving serious risk to public health;

(16) Promotion for personal gain of any unnecessary or inefficacious drug, device, treatment, procedure, or service;

(17) Conviction of any gross misdemeanor or felony relating to the practice of the person's profession. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

(18) ((~~The procuring, or aiding or abetting in procuring, a criminal abortion;~~

~~(19)~~)) The offering, undertaking, or agreeing to cure or treat disease by a secret method, procedure, treatment, or medicine, or the treating, operating, or prescribing for any health condition by a method, means, or procedure which the licensee refuses to divulge upon demand of the disciplining authority;

((~~(20)~~)) (19) The willful betrayal of a practitioner-patient privilege as recognized by law;

((~~(21)~~)) (20) Violation of chapter 19.68 RCW or a pattern of violations of RCW 41.05.700(8), 48.43.735(8), 48.49.020, 48.49.030, 71.24.335(8), or 74.09.325(8);

((~~(22)~~)) (21) Interference with an investigation or disciplinary proceeding by willful misrepresentation of facts before the disciplining authority or its authorized representative, or by the use of threats or harassment against any patient or witness to prevent them from providing evidence in a disciplinary proceeding or any other legal action, or by the use of financial inducements to any patient or witness to prevent or attempt to prevent him or her from providing evidence in a disciplinary proceeding;

((~~(23)~~)) (22) Current misuse of:

(a) Alcohol;

(b) Controlled substances; or

(c) Legend drugs;

((~~(24)~~)) (23) Abuse of a client or patient or sexual contact with a client or patient;

((~~(25)~~)) (24) Acceptance of more than a nominal gratuity, hospitality, or subsidy offered by a representative or vendor of medical or health-related products or services intended for patients, in contemplation of a sale or for use in research publishable in professional journals, where a conflict of interest is presented, as defined by rules of the disciplining authority, in consultation with the department, based on recognized professional ethical standards;

((~~(26)~~)) (25) Violation of RCW 18.130.420;

((~~(27)~~)) (26) Performing conversion therapy on a patient under age eighteen;

((~~(28)~~)) (27) Violation of RCW 18.130.430.

NEW SECTION. **Sec. 3.** A new section is added to chapter 18.130 RCW to read as follows:

(1) Notwithstanding RCW 18.130.180, the following shall not constitute unprofessional conduct under this chapter:

(a) The provision of, authorization of, recommendation of, aiding in, assistance in, referral for, or other participation in any reproductive health care services or gender affirming treatment consistent with the standard of care in Washington by a license holder;

(b) The provision of, authorization of, recommendation of, aiding in, assistance in, referral for, or other participation in any reproductive health care services or gender affirming treatment, by a license holder, if the participation would have been lawful and consistent with standards of care if it occurred entirely in Washington;

(c) A conviction or disciplinary action based on the license holder's violation of another state's laws prohibiting the provision of, authorization of, recommendation of, aiding in, assistance in, referral for, or other participation in any reproductive health care services or gender affirming treatment, if the

participation would have been lawful and consistent with standards of care if it occurred entirely in Washington.

(2) Except as required by chapter 18.71B RCW, the following, alone or in combination, shall not serve as the basis for a denial of an application for licensure, licensure renewal, or temporary practice permit, or for any other disciplinary action by a disciplining authority against an applicant or license holder:

(a) The provision of, authorization of, recommendation of, aiding in, assistance in, referral for, or other participation in any reproductive health care services or gender affirming treatment, by a license holder, if the participation would have been lawful and consistent with standards of care if it occurred entirely in Washington;

(b) A conviction or disciplinary action based on the license holder's violation of another state's laws prohibiting the provision of, authorization of, recommendation of, aiding in, assistance in, referral for, or other participation in any reproductive health care services or gender affirming treatment, if the participation would have been lawful and consistent with standards of care if it occurred entirely in Washington.

(3) Nothing in this section prohibits the disciplining authority from taking action on separate charges that are unrelated to the provision of, authorization of, recommendation of, aiding in, assistance in, referral for, or other participation in any reproductive health care services or gender affirming treatment that would have been lawful and consistent with standards of care if it occurred entirely in Washington.

(4) Nothing in this section shall be construed to expand the scope of practice of any license holder licensed under this title, nor does this section give any such license holder the authority to act outside their scope of practice as defined under this title.

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

(a) "Gender affirming treatment" means a service or product that a health care provider, as defined in RCW 70.02.010, provides to an individual to support and affirm the individual's gender identity. "Gender affirming treatment" includes, but is not limited to, treatment for gender dysphoria. "Gender affirming treatment" can be provided to two spirit, transgender, nonbinary, and other gender diverse individuals.

(b) "Reproductive health care services" means any medical services or treatments, including pharmaceutical and preventive care services or treatments, directly involved in the reproductive system and its processes, functions, and organs involved in reproduction.

NEW SECTION. **Sec. 4.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House April 14, 2023.

Passed by the Senate April 6, 2023.

Approved by the Governor April 27, 2023.

Filed in Office of Secretary of State April 27, 2023.

CHAPTER 193

[Engrossed Substitute House Bill 1469]

PROTECTED HEALTH CARE SERVICES—REPRODUCTIVE HEALTH CARE AND GENDER-AFFIRMING TREATMENT

AN ACT Relating to protecting access to reproductive health care services and gender-affirming treatment in Washington state; amending RCW 5.51.020, 5.56.010, 9.73.040, 9.73.260, 10.55.020, 10.88.250, 10.88.320, 10.88.330, 10.96.020, 10.96.040, and 40.24.030; adding a new chapter to Title 7 RCW; prescribing penalties; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** This chapter may be known and cited as the shield law.

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

(1) "Aggrieved party" means a person against whom an underlying action is commenced based on the aggrieved party's provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services.

(2) "Gender-affirming treatment" means health services or products that support and affirm an individual's gender identity, including social, psychological, behavioral, and medical or surgical interventions. Gender-affirming care services include, but are not limited to, evaluation and treatments for gender dysphoria, gender-affirming hormone therapy, and gender-affirming surgical procedures.

(3) "Protected health care services" means gender-affirming treatment and reproductive health care services that are lawful in the state of Washington.

(4) "Reproductive health care services" means all services, care, or products of a medical, surgical, psychiatric, therapeutic, mental health, behavioral health, diagnostic, preventative, rehabilitative, supportive, counseling, referral, prescribing, or dispensing nature relating to the human reproductive system including, but not limited to, all services, care, and products relating to pregnancy, assisted reproduction, contraception, miscarriage management, or the termination of a pregnancy, including self-managed terminations.

(5) "Underlying action" means a civil, criminal, or administrative proceeding, or any proceeding preliminary thereto.

PART I
CIVIL PROCEDURE

Sec. 3. RCW 5.51.020 and 2012 c 95 s 3 are each amended to read as follows:

(1)(a) To request issuance of a subpoena under this section, a party must submit a foreign subpoena to a clerk of court in the county in which discovery is sought to be conducted in this state. A request for the issuance of a subpoena under this chapter does not constitute an appearance in the courts of Washington state.

(b) A request for issuance of any subpoena pursuant to this section must include an attestation, made under penalty of perjury, stating whether the subpoena seeks documents, information, or testimony related to the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services

as defined in section 2 of this act that are lawful in the state of Washington. If a court finds that a false attestation was intentionally submitted and the subpoena did seek documents, information, or testimony related to the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services as defined in section 2 of this act that are lawful in the state of Washington, a statutory penalty of $10,000 per violation will apply. Submission of such attestation subjects the attester to the jurisdiction of the courts of Washington state for any suit, penalty, or damages arising out of a false attestation under this section.

(2) ((~~When~~)) Except as provided in subsection (4) of this section, when a party submits a foreign subpoena to a clerk of court in this state, the clerk, in accordance with that court's procedure, shall promptly issue a subpoena for service upon the person to which the foreign subpoena is directed.

(3) A subpoena under subsection (2) of this section must:

(a) Incorporate the terms used in the foreign subpoena; and

(b) Contain or be accompanied by the names, addresses, and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and of any party not represented by counsel.

(4) If a party submits a foreign subpoena to a clerk of court in this state that seeks documents, information, or testimony that relate to protected health care services, as defined in section 2 of this act, the clerk shall not issue a subpoena for service and shall present the request to the court for action. The court shall review the foreign subpoena and shall not issue a subpoena for service and shall quash any existing subpoena issued by the court if the subpoena is for documents, information, or testimony that relates to protected health care services as defined in section 2 of this act, unless the subpoena seeks documents, information, or testimony related to:

(a) An out-of-state action that is founded in tort, contract, or statute, for which a similar claim would exist under the laws of this state, that is brought by a person or the person's authorized legal representative, for damages suffered by the person or damages derived from an individual's loss of consortium of the person; or

(b) An out-of-state action that is founded in contract, and for which a similar claim would exist under the laws of this state, that is brought or sought to be enforced by a party with a contractual relationship with the person that is the subject of the subpoena.

Sec. 4. RCW 5.56.010 and 2011 c 336 s 141 are each amended to read as follows:

((~~Any~~)) Except as provided in section 13 of this act, any person may be compelled to attend as a witness before any court of record, judge, commissioner, or referee, in any civil action or proceeding in this state. No such person shall be compelled to attend as a witness in any civil action or proceeding unless the fees ((~~be~~)) are paid or tendered ((~~him or her~~)) to such person which are allowed by law for one day's attendance as a witness and for traveling to and returning from the place where he or she is required to attend, together with any allowance for meals and lodging theretofore fixed as specified herein: PROVIDED, That such fees be demanded by any witness residing within the same county where such court of record, judge, commissioner, or referee is

located, or within twenty miles of the place where such court is located, at the time of service of the subpoena: PROVIDED FURTHER, That a party desiring the attendance of a witness residing outside of the county in which such action or proceeding is pending, or more than twenty miles of the place where such court is located, shall apply ex parte to such court, or to the judge, commissioner, referee, or clerk thereof, who, if such application be granted and a subpoena issued, shall fix without notice an allowance for meals and lodging, if any to be allowed, together with necessary travel expenses, and the amounts so fixed shall be endorsed upon the subpoena and tendered to such witness at the time of the service of the subpoena: PROVIDED FURTHER, That the court shall fix and allow at or after trial such additional amounts for meals, lodging, and travel as it may deem reasonable for the attendance of such witness.

PART II
CRIMINAL PROCEDURE

Sec. 5. RCW 9.73.040 and 1967 ex.s. c 93 s 2 are each amended to read as follows:

(1) An ex parte order for the interception of any communication or conversation listed in RCW 9.73.030 may be issued by any superior court judge in the state upon verified application of either the state attorney general or any county prosecuting attorney setting forth fully facts and circumstances upon which the application is based and stating that:

(a) There are reasonable grounds to believe that national security is endangered, that a human life is in danger, that arson is about to be committed, or that a riot is about to be committed, and

(b) There are reasonable grounds to believe that evidence will be obtained essential to the protection of national security, the preservation of human life, or the prevention of arson or a riot, and

(c) There are no other means readily available for obtaining such information.

(2) Any application pursuant to this section that seeks communications or conversations related to an investigation that alleges criminal liability for the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services as defined in section 2 of this act that are lawful in the state of Washington shall include an attestation, made under penalty of perjury, stating that the application seeks information related to the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services as defined in section 2 of this act that are lawful in the state of Washington.

(3) Where statements are solely upon the information and belief of the applicant, the grounds for the belief must be given.

((~~(3)~~)) (4) The applicant must state whether any prior application has been made to obtain such communications on the same instrument or for the same person and if such prior application exists the applicant shall disclose the current status thereof.

((~~(4)~~)) (5) The application and any order issued under RCW 9.73.030 through 9.73.080 shall identify as fully as possible the particular equipment, lines or location from which the information is to be obtained and the purpose thereof.

((~~(5)~~)) (6) The court may examine upon oath or affirmation the applicant and any witness the applicant desires to produce or the court requires to be produced.

((~~(6)~~)) (7) Orders issued under this section shall be effective for fifteen days, after which period the court which issued the order may upon application of the officer who secured the original order renew or continue the order for an additional period not to exceed fifteen days.

((~~(7)~~)) (8) No order issued under this section shall authorize or purport to authorize any activity which would violate any laws of the United States.

(9) The court shall not issue an order for the interception of any communication or conversation for the purpose of investigating or recovering evidence that relates to an investigation that alleges criminal liability for the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services as defined in section 2 of this act that are lawful in the state of Washington.

Sec. 6. RCW 9.73.260 and 2015 c 222 s 2 are each amended to read as follows:

(1) As used in this section:

(a) "Wire communication" means any aural transfer made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception, including the use of such connection in a switching station, furnished or operated by any person engaged in providing or operating such facilities for the transmission of intrastate, interstate, or foreign communications, and such term includes any electronic storage of such communication.

(b) "Electronic communication" means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photo-optical system, but does not include:

(i) Any wire or oral communication;

(ii) Any communication made through a tone-only paging device; or

(iii) Any communication from a tracking device, but solely to the extent the tracking device is owned by the applicable law enforcement agency.

(c) "Electronic communication service" means any service that provides to users thereof the ability to send or receive wire or electronic communications.

(d) "Pen register" means a device that records or decodes electronic or other impulses that identify the numbers dialed or otherwise transmitted on the telephone line to which such device is attached, but such term does not include any device used by a provider or customer of a wire or electronic communication service for billing, or recording as an incident to billing, for communications services provided by such provider or any device used by a provider or customer of a wire communication service for cost accounting or other like purposes in the ordinary course of its business.

(e) "Trap and trace device" means a device that captures the incoming electronic or other impulses that identify the originating number of an instrument or device from which a wire or electronic communication was transmitted.

(f) "Cell site simulator device" means a device that transmits or receives radio waves for the purpose of conducting one or more of the following operations: (i) Identifying, locating, or tracking the movements of a communications device; (ii) intercepting, obtaining, accessing, or forwarding the communications, stored data, or metadata of a communications device; (iii) affecting the hardware or software operations or functions of a communications device; (iv) forcing transmissions from or connections to a communications device; (v) denying a communications device access to other communications devices, communications protocols, or services; or (vi) spoofing or simulating a communications device, cell tower, cell site, or service((~~,~~)) including, but not limited to, an international mobile subscriber identity catcher or other invasive cell phone or telephone surveillance or eavesdropping device that mimics a cell phone tower and sends out signals to cause cell phones in the area to transmit their locations, identifying information, and communications content, or a passive interception device or digital analyzer that does not send signals to a communications device under surveillance. A cell site simulator device does not include any device used or installed by an electric utility, as defined in RCW 19.280.020, solely to the extent such device is used by that utility to measure electrical usage, to provide services to customers, or to operate the electric grid.

(2) No person may install or use a pen register, trap and trace device, or cell site simulator device without a prior court order issued under this section except as provided under subsection (6) of this section or RCW 9.73.070.

(3) A law enforcement officer may apply for and the superior court may issue orders and extensions of orders authorizing the installation and use of pen registers, trap and trace devices, and cell site simulator devices as provided in this section. The application shall be under oath and shall include the identity of the officer making the application and the identity of the law enforcement agency conducting the investigation. The applicant must certify that the information likely to be obtained is relevant to an ongoing criminal investigation being conducted by that agency.

(4) If the court finds that the information likely to be obtained by such installation and use is relevant to an ongoing criminal investigation and finds that there is probable cause to believe that the pen register, trap and trace device, or cell site simulator device will lead to obtaining evidence of a crime, contraband, fruits of crime, things criminally possessed, weapons, or other things by means of which a crime has been committed or reasonably appears about to be committed, or will lead to learning the location of a person who is unlawfully restrained or reasonably believed to be a witness in a criminal investigation or for whose arrest there is probable cause, the court shall enter an ex parte order authorizing the installation and use of a pen register, trap and trace device, or cell site simulator device. The order shall specify:

(a)(i) In the case of a pen register or trap and trace device, the identity, if known, of the person to whom is leased or in whose name is listed the telephone line to which the pen register or trap and trace device is to be attached; or

(ii) In the case of a cell site simulator device, the identity, if known, of (A) the person to whom is subscribed or in whose name is subscribed the electronic communications service utilized by the device to which the cell site simulator device is to be used and (B) the person who possesses the device to which the cell site simulator device is to be used;

(b) The identity, if known, of the person who is the subject of the criminal investigation;

(c)(i) In the case of a pen register or trap and trace device, the number and, if known, physical location of the telephone line to which the pen register or trap and trace device is to be attached and, in the case of a trap and trace device, the geographic limits of the trap and trace order; or

(ii) In the case of a cell site simulator device: (A) The telephone number or other unique subscriber account number identifying the wire or electronic communications service account used by the device to which the cell site simulator device is to be attached or used; (B) if known, the physical location of the device to which the cell site simulator device is to be attached or used; (C) the type of device, and the communications protocols being used by the device, to which the cell site simulator device is to be attached or used; (D) the geographic area that will be covered by the cell site simulator device; (E) all categories of metadata, data, or information to be collected by the cell site simulator device from the targeted device including, but not limited to, call records and geolocation information; (F) whether or not the cell site simulator device will incidentally collect metadata, data, or information from any parties or devices not specified in the court order, and if so, what categories of information or metadata will be collected; and (G) any disruptions to access or use of a communications or internet access network that may be created by use of the device; and

(d) A statement of the offense to which the information likely to be obtained by the pen register, trap and trace device, or cell site simulator device relates.

The order shall direct, if the applicant has requested, the furnishing of information, facilities, and technical assistance necessary to accomplish the installation of the pen register, trap and trace device, or cell site simulator device. An order issued under this section shall authorize the installation and use of a: (i) Pen register or a trap and trace device for a period not to exceed sixty days; and (ii) ((~~a~~)) cell site simulator device for sixty days. An extension of the original order may only be granted upon: A new application for an order under subsection (3) of this section; and a showing that there is a probability that the information or items sought under this subsection are more likely to be obtained under the extension than under the original order. No extension beyond the first extension shall be granted unless: There is a showing that there is a high probability that the information or items sought under this subsection are much more likely to be obtained under the second or subsequent extension than under the original order; and there are extraordinary circumstances such as a direct and immediate danger of death or serious bodily injury to a law enforcement officer. The period of extension shall be for a period not to exceed sixty days.

An order authorizing or approving the installation and use of a pen register, trap and trace device, or cell site simulator device shall direct that the order be sealed until otherwise ordered by the court and that the person owning or leasing the line to which the pen register, trap and trace device, and cell site simulator device((~~s~~)) is attached or used, or who has been ordered by the court to provide assistance to the applicant, not disclose the existence of the pen register, trap and trace device, or cell site simulator device or the existence of the investigation to the listed subscriber or to any other person, unless or until otherwise ordered by the court.

(5) Upon the presentation of an order, entered under subsection (4) of this section, by an officer of a law enforcement agency authorized to install and use a pen register under this chapter, a provider of wire or electronic communication service, landlord, custodian, or other person shall furnish such law enforcement officer forthwith all information, facilities, and technical assistance necessary to accomplish the installation of the pen register unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the installation and use is to take place, if such assistance is directed by a court order as provided in subsection (4) of this section.

Upon the request of an officer of a law enforcement agency authorized to receive the results of a trap and trace device under this chapter, a provider of a wire or electronic communication service, landlord, custodian, or other person shall install such device forthwith on the appropriate line and shall furnish such law enforcement officer all additional information, facilities, and technical assistance including installation and operation of the device unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the installation and use is to take place, if such installation and assistance is directed by a court order as provided in subsection (4) of this section. Unless otherwise ordered by the court, the results of the trap and trace device shall be furnished to the officer of a law enforcement agency, designated in the court order, at reasonable intervals during regular business hours for the duration of the order.

A provider of a wire or electronic communication service, landlord, custodian, or other person who furnishes facilities or technical assistance pursuant to this subsection shall be reasonably compensated by the law enforcement agency that requests the facilities or assistance for such reasonable expenses incurred in providing such facilities and assistance.

No cause of action shall lie in any court against any provider of a wire or electronic communication service, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order under this section. A good faith reliance on a court order under this section, a request pursuant to this section, a legislative authorization, or a statutory authorization is a complete defense against any civil or criminal action brought under this chapter or any other law.

(6)(a) Notwithstanding any other provision of this chapter, a law enforcement officer and a prosecuting attorney or deputy prosecuting attorney who jointly and reasonably determine that there is probable cause to believe that an emergency situation exists that involves immediate danger of death or serious bodily injury to any person that requires the installation and use of a pen register, trap and trace device, or cell site simulator device before an order authorizing such installation and use can, with due diligence, be obtained, and there are grounds upon which an order could be entered under this chapter to authorize such installation and use, may have installed and use a pen register, trap and trace device, or cell site simulator device if, within forty-eight hours after the installation has occurred, or begins to occur, an order approving the installation or use is issued in accordance with subsection (4) of this section. In the absence of an authorizing order, such use shall immediately terminate when the information sought is obtained, when the application for the order is denied or

when forty-eight hours have lapsed since the installation of the pen register, trap and trace device, or cell site simulator device, whichever is earlier. If an order approving the installation or use is not obtained within forty-eight hours, any information obtained is not admissible as evidence in any legal proceeding. The knowing installation or use by any law enforcement officer of a pen register, trap and trace device, or cell site simulator device pursuant to this subsection without application for the authorizing order within forty-eight hours of the installation shall constitute a violation of this chapter and be punishable as a gross misdemeanor. A provider of a wire or electronic service, landlord, custodian, or other person who furnished facilities or technical assistance pursuant to this subsection shall be reasonably compensated by the law enforcement agency that requests the facilities or assistance for such reasonable expenses incurred in providing such facilities and assistance.

(b) A law enforcement agency that authorizes the installation of a pen register, trap and trace device, or cell site simulator device under this subsection (6) shall file a monthly report with the administrator for the courts. The report shall indicate the number of authorizations made, the date and time of each authorization, whether a court authorization was sought within forty-eight hours, and whether a subsequent court authorization was granted.

(c) A law enforcement agency authorized to use a cell site simulator device in accordance with this section must: (i) Take all steps necessary to limit the collection of any information or metadata to the target specified in the applicable court order; (ii) take all steps necessary to permanently delete any information or metadata collected from any party not specified in the applicable court order immediately following such collection and must not transmit, use, or retain such information or metadata for any purpose whatsoever; and (iii) ((~~must~~)) delete any information or metadata collected from the target specified in the court order within thirty days if there is no longer probable cause to support the belief that such information or metadata is evidence of a crime.

(7)(a) If an application for the installation and use of a pen register, trap and trace device, or cell site simulator device is for the purpose of investigating or recovering evidence that relates to an investigation that alleges criminal liability for the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services as defined in section 2 of this act that are lawful in the state of Washington, the applicant shall include an attestation, made under penalty of perjury, stating that the application seeks information related to the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services as defined in section 2 of this act that are lawful in the state of Washington.

(b) The court shall not issue an order for the installation and use of pen registers, trap and trace devices, and cell site simulator devices for the purpose of investigating or recovering evidence that relates to an investigation that alleges criminal liability for the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services as defined in section 2 of this act that are lawful in the state of Washington.

Sec. 7. RCW 10.55.020 and 2010 c 8 s 1050 are each amended to read as follows:

(1) If a judge of a court of record in any state which by its laws has made provision for commanding persons within that state to attend and testify in this state certified under the seal of such court that there is a criminal prosecution pending in such court, or that a grand jury investigation has commenced or is about to commence, that a person being within this state is a material witness in such prosecution, or grand jury investigation, and that ((~~his or her~~)) such person's presence will be required for a specified number of days, upon presentation of such certificate, accompanied by an attestation made under penalty of perjury stating whether such prosecution or grand jury investigation is related to the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services as defined in section 2 of this act that are lawful in the state of Washington, to any judge of a court of record in the county in which such person is, such judge shall fix a time and place for a hearing, and shall make an order directing the witness to appear at a time and place certain for the hearing. If a court finds that a false attestation was intentionally submitted and the prosecution or grand jury investigation is related to the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services as defined in section 2 of this act that are lawful in the state of Washington, a statutory penalty of $10,000 per violation will apply. Submission of such attestation subjects the attester to the jurisdiction of the courts of Washington state for any suit, penalty, or damages arising out of a false attestation under this section.

(2) If at a hearing the judge determines that the witness is material and necessary, that it will not cause undue hardship to the witness to be compelled to attend and testify in the prosecution or a grand jury investigation in the other state, and that the laws of the state in which the prosecution is pending, or grand jury investigation has commenced or is about to commence, will give to ((~~him or her~~)) such witness protection from arrest and the service of civil and criminal process, he or she shall issue a summons, with a copy of the certificate attached, directing the witness to attend and testify in the court where the prosecution is pending, or where a grand jury investigation has commenced or is about to commence and of any other state through which the witness may be required to travel by ordinary course of travel, at a time and place specified in the certificate. In any such hearing the certificate shall be prima facie evidence of all the facts stated therein.

(3) If said certificate recommends that the witness be taken into immediate custody and delivered to an officer of the requesting state to assure ((~~his or her~~)) such person's attendance in the requesting state, such judge may, in lieu of notification of the hearing, direct that such witness be forthwith brought before ((~~him or her~~)) such judge for said hearing; and the judge at the hearing being satisfied of the desirability of such custody and delivery, for which determination the certificate shall be prima facie proof of such desirability may, in lieu of issuing subpoena or summons, order that said witness be forthwith taken into custody and delivered to an officer of the requesting state.

(4) If the witness, who is summoned as above provided, after being paid or tendered by some properly authorized person the sum of ten cents a mile for each mile by the ordinary traveled route to and from the court where the prosecution is pending and five dollars for each day, that ((~~he or she~~)) such person is required to travel and attend as a witness, fails without good cause to attend and testify as directed in the summons, ((~~he or she~~)) such person shall be punished in the manner provided for the punishment of any witness who disobeys a summons issued from a court of record in this state.

(5) The summons of a witness to testify in the prosecution or a grand jury investigation in another state is prohibited if such prosecution or grand jury investigation is related to the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services as defined in section 2 of this act that are lawful in the state of Washington.

Sec. 8. RCW 10.88.250 and 1971 ex.s. c 46 s 6 are each amended to read as follows:

((~~The~~)) (1) Except as provided in subsection (2) of this section, the governor of this state may also surrender, on demand of the executive authority of any other state, any person in this state charged in such other state in the manner provided in RCW 10.88.220 with committing an act in this state, or in a third state, intentionally resulting in a crime in the state whose executive authority is making the demand, and the provisions of this chapter not otherwise inconsistent, shall apply to such cases, even though the accused was not in that state at the time of the commission of the crime, and has not fled therefrom.

(2) The governor of this state shall not surrender any person described in subsection (1) of this section where the charge against the person is based on the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services as defined in section 2 of this act that are lawful in the state of Washington.

Sec. 9. RCW 10.88.320 and 2010 c 8 s 1075 are each amended to read as follows:

(1) Whenever any person within this state shall be charged on the oath of any credible person before any judge or magistrate of this state with the commission of any crime in any other state and, except in cases arising under RCW 10.88.250, with having fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of ((~~his or her~~)) such person's bail, probation, or parole, or whenever complaint shall have been made before any judge or magistrate in this state setting forth on the affidavit of any credible person in another state that a crime has been committed in such other state and that the accused has been charged in such state with the commission of the crime, and, except in cases arising under RCW 10.88.250, has fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of ((~~his or her~~)) such person's bail, probation, or parole and is believed to be in this state, the judge or magistrate shall issue a warrant directed to any peace officer commanding ((~~him or her~~)) such officer to apprehend the person named therein, wherever ((~~he or she~~)) such person may be found in this state, and to bring ((~~him~~

~~or her~~)) such person before the same or any other judge, magistrate or court who or which may be available in or convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit, and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

(2) Any person making such charge or complaint and affidavit under this section with information that the charge for the commission of the crime in another state is related to criminal liability that is based on the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services as defined in section 2 of this act that are lawful in the state of Washington has an affirmative duty to disclose to the judge or magistrate that the charge for the commission of the crime in another state is related to criminal liability that is based on the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services as defined in section 2 of this act that are lawful in the state of Washington and shall provide an attestation stating whether such charge or complaint relates to criminal liability that is based on such protected health care services. Any false attestation submitted under this subsection is subject to a statutory penalty of $10,000 per violation. Submission of such attestation subjects the attester to the jurisdiction of the courts of Washington state for any suit, penalty, or damages arising out of a false attestation under this section.

(3) Except in cases arising under RCW 10.88.220, the issuance of a warrant is prohibited for a charge or complaint that is related to criminal liability that is based on the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services as defined in section 2 of this act that are lawful in the state of Washington.

Sec. 10. RCW 10.88.330 and 2010 c 8 s 1076 are each amended to read as follows:

(1) The arrest of a person may be lawfully made also by any peace officer or a private person, without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against him or her under oath setting forth the ground for the arrest as in RCW 10.88.320; and thereafter his or her answer shall be heard as if he or she had been arrested on a warrant.

(2) An officer of the United States customs service or the immigration and naturalization service may, without a warrant, arrest a person if:

(a) The officer is on duty;

(b) One or more of the following situations exists:

(i) The person commits an assault or other crime involving physical harm, defined and punishable under chapter 9A.36 RCW, against the officer or against any other person in the presence of the officer;

(ii) The person commits an assault or related crime while armed, defined and punishable under chapter 9.41 RCW, against the officer or against any other person in the presence of the officer;

(iii) The officer has reasonable cause to believe that a crime as defined in (b)(i) or (ii) of this subsection has been committed and reasonable cause to believe that the person to be arrested has committed it;

(iv) The officer has reasonable cause to believe that a felony has been committed and reasonable cause to believe that the person to be arrested has committed it; or

(v) The officer has received positive information by written, telegraphic, teletypic, telephonic, radio, or other authoritative source that a peace officer holds a warrant for the person's arrest; and

(c) The regional commissioner of customs certifies to the state of Washington that the customs officer has received proper training within the agency to enable that officer to enforce or administer this subsection.

(3) The arrest of a person is prohibited if the arrest is related to criminal liability that is based on the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services as defined in section 2 of this act that are lawful in the state of Washington.

Sec. 11. RCW 10.96.020 and 2008 c 21 s 3 are each amended to read as follows:

This section shall apply to any criminal process allowing for search of or commanding production of records that are in the actual or constructive possession of a recipient who receives service outside Washington, regardless of whether the recipient or the records are physically located within the state.

(1) When properly served with criminal process issued under this section, the recipient shall provide the applicant all records sought pursuant to the criminal process. The records shall be produced within twenty business days of receipt of the criminal process, unless the process requires earlier production. An applicant may consent to a recipient's request for additional time to comply with the criminal process.

(2) Criminal process issued under this section must contain the following language in bold type on the first page of the document: "This [warrant, subpoena, order] is issued pursuant to RCW [insert citation to this statute]. A response is due within twenty business days of receipt, unless a shorter time is stated herein, or the applicant consents to a recipient's request for additional time to comply."

(3) If the judge finds reason to suspect that failure to produce records within twenty business days would cause an adverse result, the criminal process may require production of records within less than twenty business days. A court may reasonably extend the time required for production of the records upon finding that the recipient has shown good cause for that extension and that an extension of time would not cause an adverse result.

(4) When properly served with criminal process issued under this section, a recipient who seeks to quash the criminal process must seek relief from the court where the criminal process was issued, within the time originally required for production of records. The court shall hear and decide the motion no later than five court days after the motion is filed. An applicant's consent, under subsection (1) of this section, to a recipient's request for additional time to comply with the criminal process does not extend the date by which a recipient must seek the relief designated in this section.

(5) The issuance of criminal process is prohibited if such process is related to criminal liability that is based on the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services as defined in section 2 of this act that are lawful in the state of Washington.

Sec. 12. RCW 10.96.040 and 2008 c 21 s 5 are each amended to read as follows:

(1) A Washington recipient, when served with process that was issued by or in another state that on its face purports to be valid criminal process, shall comply with that process as if that process had been issued by a Washington court if the criminal process includes an attestation, made under penalty of perjury, stating that such process does not relate to criminal liability that is based on the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services as defined in section 2 of this act that are lawful in the state of Washington. Any false attestation submitted under this section is subject to a statutory penalty of $10,000 per violation. Submission of such attestation subjects the attester to the jurisdiction of the courts of Washington state for any suit, penalty, or damages arising out of a false attestation under this section.

(2) A Washington recipient shall not be required to comply with a criminal process issued by or in another state that is related to criminal liability that is based on the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services as defined in section 2 of this act that are lawful in the state of Washington.

PART III
ENFORCEMENT AND REMEDIES

NEW SECTION. **Sec. 13.** (1) It is the public policy of Washington to protect the provision of protected health care services that are lawful in the state of Washington by a person duly licensed under the laws of the state of Washington and the provision of insurance coverage for such services regardless of the location of the person receiving the services.

(2) A law of another state that authorizes the imposition of civil or criminal penalties or liability related to the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services that are lawful in the state of Washington is against the public policy of this state. Accordingly:

(a) A state court, judicial officer, court employee or clerk, or public employee or official shall not issue or effectuate a warrant for the arrest of any person in connection with the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services that are lawful in the state of Washington and a state or local law enforcement agency or officer shall not effectuate such a warrant or knowingly arrest, or knowingly participate in the arrest of, any person for the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of such protected health care services.

(b) A state or local agency, commission, board, or department, or any employee thereof, acting in their official capacity, shall not cooperate with or provide information to any individual, agency, commission, board, or department from another state or, to the extent permitted by federal law, to a federal law enforcement agency, for the purpose of enforcing another state's law or an investigation related to another state's law that asserts criminal or civil liability for the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services that are lawful in the state of Washington.

(c) A state court, judicial officer, court employee or clerk, or attorney shall not issue a subpoena, warrant, court order, or other civil or criminal legal process pursuant to any state law in connection with a proceeding in another state related to the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services that are lawful in the state of Washington.

(d)(i) A business entity that is incorporated, or has its principal place of business, in Washington that provides electronic communication services as defined in RCW 9.73.260 may not:

(A) Knowingly provide records, information, facilities, or assistance in response to a subpoena, warrant, court order, or other civil or criminal legal process that relates to an investigation into, or the enforcement of, another state's law that asserts criminal or civil liability for the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services that are lawful in the state of Washington; or

(B) Comply with a subpoena, warrant, court order, or other civil or criminal legal process for records, information, facilities, or assistance related to protected health care services that are lawful in the state of Washington unless the subpoena, warrant, court order, or other civil or criminal legal process includes, or is accompanied by, an attestation, made under penalty of perjury, stating that the subpoena, warrant, court order, or other civil or criminal legal process does not seek documents, information, or testimony relating to an investigation into, or the enforcement of, another state's law that asserts criminal or civil liability for the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services that are lawful in the state of Washington. Any false attestation submitted under this section is subject to a statutory penalty of $10,000 per violation. Submission of such attestation subjects the attester to the jurisdiction of the courts of Washington state for any suit, penalty, or damages arising out of a false attestation under this section.

(ii) Any business entity described in (d)(i) of this subsection that is served with a subpoena, warrant, court order, or other civil or criminal legal process described in (d)(i) of this subsection is entitled to rely on the representations made in an attestation described in (d)(i) of this subsection in determining whether the subpoena, warrant, court order, or other civil or criminal legal process relates to an investigation into, or the enforcement of, another state's law that asserts criminal or civil liability for the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted

assistance in the provision or receipt of protected health care services that are lawful in the state of Washington.

(3) Nothing in this section prohibits the investigation of any criminal activity in this state that may involve the alleged provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services occurring in the state of Washington. Any information relating to any protected health care services provided to a specific individual shall not be shared with an agency, department, or individual from another state for the purpose of investigating or enforcing another state's law that asserts criminal or civil liability for the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services that are lawful in the state of Washington.

(4) A state court, judicial officer, court employee or clerk, or public employee or official shall not apply to a case or controversy heard in state court any law that is contrary to this state's public policy as described in this section.

NEW SECTION. **Sec. 14.** (1)(a) A claim for interference with protected health care services arises when:

(i) Any underlying action is commenced against an aggrieved party in any court, state or federal, in the United States or any of its territories, where liability in the underlying action is based in whole or in part on:

(A) The aggrieved party's provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services that are lawful in the state of Washington;

(B) Conduct occurring in this state; and

(C) A cause of action or criminal liability that is not available under Washington law or the law of another state that is substantially similar to Washington law; or

(ii)(A) Any person in the state of Washington receives a subpoena from any court, state or federal, in the United States or any of its territories, where the information sought concerns the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services that are lawful in the state of Washington; and

(B) Where liability in the underlying action is based in whole or in part on a cause of action or criminal liability that is not available under Washington law or the law of another state that is substantially similar to Washington law.

(b) An underlying action is based on conduct occurring in this state if any part of the acts or omissions that form the basis of liability in the underlying action occur in Washington state, whether or not such acts or omissions are alleged in the action.

(2) A person may maintain a claim for interference with protected health care services under this section if the underlying action is objectively baseless and brought for an improper purpose.

(a) An underlying action is objectively baseless under this section if:

(i) The court in the underlying action lacked jurisdiction over the aggrieved party;

(ii) The underlying action impedes the right to travel; or

(iii) Other factors exist that the court determines demonstrate the objective baselessness of the underlying action.

(b) An underlying action is brought for an improper purpose under this section if:

(i) A purpose of the underlying action is to deter acts or omissions in Washington state that are permitted under the laws of the state of Washington; or

(ii) Other factors exist that the court determines demonstrate the underlying action was brought for an improper purpose.

(3) If a court finds for the aggrieved party in an action asserting a claim for interference with protected health care services authorized by this section, the aggrieved party may recover damages from any party that brought the underlying action. Recoverable damages include:

(a) Actual damages including, but not limited to, costs and reasonable attorneys' fees spent in defending the underlying action;

(b) Costs and reasonable attorneys' fees incurred in bringing an action under this section as may be allowed by the court; and

(c) Statutory damages up to $10,000 if the underlying action is found to be frivolous.

(4) The provisions of this section do not apply to a judgment entered in another state that is based on an action:

(a) Founded in tort, contract, or statute, and for which a similar claim would exist under the laws of this state, brought by the person who received the protected health care services upon which the original lawsuit was based or the person's authorized legal representative, for damages suffered by the person or damages derived from an individual's loss of consortium of the person;

(b) Founded in contract, and for which a similar claim would exist under the laws of this state, brought or sought to be enforced by a party with a contractual relationship with the person that is the subject of the judgment entered in another state; or

(c) Where no part of the acts that formed the basis for liability occurred in this state.

NEW SECTION. **Sec. 15.** Any person in the state of Washington that receives a subpoena from any court, state or federal, in the United States or any of its territories, may, pursuant to the Washington rules of civil procedure, move to modify or quash the subpoena on the grounds that it is inconsistent with the public policy of Washington under this chapter if:

(1) The information sought concerns the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services that are lawful in the state of Washington; and

(2) Liability in the underlying action is based in whole or in part on a cause of action or criminal liability that is not available under Washington law or the law of another state that is substantially similar to Washington law.

NEW SECTION. **Sec. 16.** (1) The attorney general may bring an action to enjoin any person from violating any provision of this chapter. Upon proper showing, the superior court may grant a permanent or temporary injunction, restraining order, writ of mandamus, or any additional orders or judgments necessary to enjoin such persons from violating this chapter. For any action in

which the attorney general prevails, the attorney general may recover the costs of the action, including a reasonable attorney's fee.

(2) In furtherance of enforcing the provisions of this chapter and ensuring compliance with the public policy of Washington, the attorney general's office shall maintain a current list of any laws of another state that impose criminal liability for the provision, receipt, attempted provision or receipt, assistance in the provision or receipt, or attempted assistance in the provision or receipt of protected health care services that are lawful in Washington and make such list available to the Washington state patrol.

NEW SECTION. **Sec. 17.** The courts of this state shall give full faith and credit as provided for in the United States Constitution to the public acts, records, and judicial proceedings of another state and nothing in this act shall be construed to undermine the primacy of that clause.

Sec. 18. RCW 40.24.030 and 2022 c 231 s 5 are each amended to read as follows:

(1)(a) An adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person, as defined in RCW 11.88.010, (b) any election official as described in RCW 9A.90.120 who is a target for threats or harassment prohibited under RCW 9A.90.120(2)(b) (iii) or (iv), and any family members residing with ((~~him or her, and~~)) such person (c) any criminal justice participant as defined in RCW 9A.46.020 who is a target for threats or harassment prohibited under RCW 9A.46.020(2)(b) (iii) or (iv) and any criminal justice participant as defined in RCW 9A.90.120 who is a target for threats or harassment prohibited under RCW 9A.90.120(2)(b) (iii) or (iv), and any family members residing with ((~~him or her~~)) such person, and (d) any protected health care services provider, employee, or an affiliate of such provider, who provides, attempts to provide, assists in the provision, or attempts to assist in the provision of protected health care services as defined in section 2 of this act, and any family members residing with such person, may apply to the secretary of state to have an address designated by the secretary of state serve as the person's address or the address of the minor or incapacitated person. The secretary of state shall approve an application if it is filed in the manner and on the form prescribed by the secretary of state and if it contains:

(i) A sworn statement, under penalty of perjury, by the applicant that the applicant has good reason to believe (A) that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic violence, sexual assault, trafficking, or stalking and that the applicant fears for ((~~his or her~~)) the applicant's safety or ((~~his or her~~)) the applicant's children's safety, or the safety of the minor or incapacitated person on whose behalf the application is made; (B) that the applicant, as an election official as described in RCW 9A.90.120, is a target for threats or harassment prohibited under RCW 9A.90.120(2)(b) (iii) or (iv); ((~~or~~)) (C) that the applicant, as a criminal justice participant as defined in RCW 9A.46.020, is a target for threats or harassment prohibited under RCW 9A.46.020(2)(b) (iii) or (iv), or that the applicant, as a criminal justice participant as defined in RCW 9A.90.120 is a target for threats or harassment prohibited under RCW 9A.90.120(2)(b) (iii) or (iv); or (D) that the applicant, as a protected health care services provider, employee, or an affiliate of such provider, who provides, attempts to provide,

assists in the provision, or attempts to assist in the provision of protected health care services as defined in section 2 of this act, is a target for threats or harassment prohibited under RCW 9A.90.120 or 9A.46.020;

(ii) If applicable, a sworn statement, under penalty of perjury, by the applicant, that the applicant has reason to believe they are a victim of (A) domestic violence, sexual assault, or stalking perpetrated by an employee of a law enforcement agency, ((~~or;~~)) (B) threats or harassment prohibited under RCW 9A.90.120(2)(b) (iii) or (iv) or 9A.46.020(2)(b) (iii) or (iv), or (C) threats or harassment as described in (a)(i)(D) of this subsection;

(iii) A designation of the secretary of state as agent for purposes of service of process and for the purpose of receipt of mail;

(iv) The residential address and any telephone number where the applicant can be contacted by the secretary of state, which shall not be disclosed because disclosure will increase the risk of (A) domestic violence, sexual assault, trafficking, or stalking, ((~~or~~)) (B) threats or harassment prohibited under RCW 9A.90.120(2)(b) (iii) or (iv) or 9A.46.020(2)(b) (iii) or (iv), or (C) threats or harassment as described in (a)(i)(D) of this subsection;

(v) The signature of the applicant and of any individual or representative of any office designated in writing under RCW 40.24.080 who assisted in the preparation of the application, and the date on which the applicant signed the application.

(2) Applications shall be filed with the office of the secretary of state.

(3) Upon filing a properly completed application, the secretary of state shall certify the applicant as a program participant. Applicants shall be certified for four years following the date of filing unless the certification is withdrawn or invalidated before that date. The secretary of state shall by rule establish a renewal procedure.

(4)(a) During the application process, the secretary of state shall provide each applicant a form to direct the department of licensing to change the address of registration for vehicles or vessels solely or jointly registered to the applicant and the address associated with the applicant's driver's license or identicard to the applicant's address as designated by the secretary of state upon certification in the program. The directive to the department of licensing is only valid if signed by the applicant. The directive may only include information required by the department of licensing to verify the applicant's identity and ownership information for vehicles and vessels. This information is limited to the:

(i) Applicant's full legal name;

(ii) Applicant's Washington driver's license or identicard number;

(iii) Applicant's date of birth;

(iv) Vehicle identification number and license plate number for each vehicle solely or jointly registered to the applicant; and

(v) Hull identification number or vessel document number and vessel decal number for each vessel solely or jointly registered to the applicant.

(b) Upon certification of the applicants, the secretary of state shall transmit completed and signed directives to the department of licensing.

(c) Within 30 days of receiving a completed and signed directive, the department of licensing shall update the applicant's address on registration and licensing records.

(d) Applicants are not required to sign the directive to the department of licensing to be certified as a program participant.

(5) A person who knowingly provides false or incorrect information upon making an application or falsely attests in an application that disclosure of the applicant's address would endanger (a) the applicant's safety or the safety of the applicant's children or the minor or incapacitated person on whose behalf the application is made, (b) the safety of any election official as described in RCW 9A.90.120 who is a target for threats or harassment prohibited under RCW 9A.90.120(2)(b) (iii) or (iv), ((~~or~~)) (c) the safety of any criminal justice participant as defined in RCW 9A.46.020 who is a target for threats or harassment prohibited under RCW 9A.46.020(2)(b) (iii) or (iv) or of any criminal justice participant as defined in RCW 9A.90.120 who is a target for threats or harassment prohibited under RCW 9A.90.120(2)(b) (iii) or (iv), or (d) the safety of any person as described in subsection (1)(a)(i)(D) of this section who is a target for threats or harassment, or any family members residing with ((~~him or her~~)) such person, shall be punished under RCW 40.16.030 or other applicable statutes.

NEW SECTION. **Sec. 19.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 20.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. **Sec. 21.** Sections 1, 2, and 13 through 17 of this act constitute a new chapter in Title 7 RCW.

Passed by the House February 28, 2023.
Passed by the Senate April 10, 2023.
Approved by the Governor April 27, 2023.
Filed in Office of Secretary of State April 27, 2023.

CHAPTER 194

[Senate Bill 5242]

ABORTION—HEALTH PLANS—COST SHARING

AN ACT Relating to prohibiting cost sharing for abortion; amending RCW 48.43.073; and adding a new section to chapter 41.05 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 48.43.073 and 2021 c 53 s 1 are each amended to read as follows:

(1)(a) Except as provided in subsection (5) of this section, if a health plan issued or renewed on or after January 1, 2019, provides coverage for maternity care or services, the health plan must also provide a covered person with substantially equivalent coverage to permit the abortion of a pregnancy. Except as provided in subsection (5) of this section, if a student health plan, including student health plans deemed by the insurance commissioner to have a short-term limited purpose or duration or to be guaranteed renewable while the covered person is enrolled as a regular full-time undergraduate or graduate student at an

accredited higher education institution, issued or renewed on or after January 1, 2022, provides coverage for maternity care or services, the health plan must also provide a covered person with substantially equivalent coverage to permit the abortion of a pregnancy.

(b) Except as provided in (c) of this subsection, for health plans issued or renewed on or after January 1, 2024, a health carrier may not impose cost sharing for abortion of a pregnancy.

(c) For a health plan that provides coverage for abortion of a pregnancy and is offered as a qualifying health plan for a health savings account, the health carrier shall establish the plan's cost sharing for the coverage required by this section at the minimum level necessary to preserve the enrollee's ability to claim tax exempt contributions and withdrawals from the enrollee's health savings account under internal revenue service laws and regulations.

(2)(a) Except as provided in (b) of this subsection, a health plan or student health plan subject to subsection (1) of this section may not limit in any way a person's access to services related to the abortion of a pregnancy.

(b)(i) Coverage for the abortion of a pregnancy may be subject to terms and conditions generally applicable to the health plan or student health plan's coverage of maternity care or services((~~, including applicable cost sharing~~)).

(ii) A health plan or student health plan is not required to cover abortions that would be unlawful under RCW 9.02.120.

(3) Nothing in this section may be interpreted to limit in any way an individual's constitutionally or statutorily protected right to voluntarily terminate a pregnancy.

(4) This section does not, pursuant to 42 U.S.C. Sec. 18054(a)(6), apply to a multistate plan that does not provide coverage for the abortion of a pregnancy.

(5) If the application of this section to a health plan or student health plan results in noncompliance with federal requirements that are a prescribed condition to the allocation of federal funds to the state, this section is inapplicable to the plan to the minimum extent necessary for the state to be in compliance. The inapplicability of this section to a specific health plan or student health plan under this subsection does not affect the operation of this section in other circumstances.

NEW SECTION. **Sec. 2.** A new section is added to chapter 41.05 RCW to read as follows:

(1) Except as provided in subsection (2) of this section, a health plan offered to public employees and their covered dependents under this chapter issued or renewed on or after January 1, 2024, that provides coverage for abortion may not impose cost sharing for the abortion of a pregnancy.

(2) For a health plan that provides coverage for abortion of a pregnancy and is offered as a qualifying health plan for a health savings account, the health plan shall establish the plan's cost sharing for the coverage required by this section at the minimum level necessary to preserve the enrollee's ability to claim tax exempt contributions and withdrawals from the enrollee's health savings account under internal revenue service laws and regulations.

Passed by the Senate February 28, 2023.
Passed by the House April 7, 2023.
Approved by the Governor April 27, 2023.

Filed in Office of Secretary of State April 27, 2023.

CHAPTER 195

[Senate Bill 5768]

ABORTION MEDICATIONS—DEPARTMENT OF CORRECTIONS

AN ACT Relating to protecting access to abortion medications by authorizing the department of corrections to acquire, sell, deliver, distribute, and dispense abortion medications; amending RCW 18.64.046; adding a new section to chapter 72.09 RCW; creating new sections; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) It is the longstanding public policy of this state to promote access to affordable, high quality sexual and reproductive health care, including abortion care, without unnecessary burdens or restrictions on patients or providers. In 1970 Washington was one of the first states to decriminalize abortion before *Roe v. Wade*; and in 1991 the people of Washington passed Initiative Measure 120, the reproductive privacy act, further protecting access to abortion services. It is the public policy of the state of Washington to continue to protect and advance equal rights to access abortion care that meets each individual's needs, including access to abortion medications.

(2) The legislature finds that the continued attack on reproductive freedoms across the country require immediate action to protect the right to abortion access in Washington. Therefore, it is the intent of the legislature to ensure access to abortion medications for individuals seeking abortion care.

NEW SECTION. **Sec. 2.** A new section is added to chapter 72.09 RCW to read as follows:

(1) The department is authorized to acquire, receive, possess, sell, resell, deliver, dispense, distribute, and engage in any activity constituting the practice of pharmacy or wholesale distribution with respect to abortion medications.

(2) The department may exercise the authority granted in this section for the benefit of any person, whether or not the person is in the custody or under the supervision of the department.

(3) The department shall exercise the authority granted in this section in accordance with any applicable law including, but not limited to, any applicable licensing requirements, except that the department is exempt from obtaining a wholesaler's license for any actions taken pursuant to this act as provided in RCW 18.64.046.

(4)(a) The department shall establish and operate a program to deliver, dispense, and distribute abortion medications described in this section. In circumstances in which the department is selling, delivering, or distributing abortion medications to a health care provider or health care entity, it may only sell, distribute, or deliver abortion medications to health care providers and health care entities that will only use the medications for the purposes of providing abortion care or medical management of early pregnancy loss.

(b) Any abortion medications sold, resold, delivered, dispensed, or distributed whether individually or wholesale shall be conducted at cost not to exceed list price, plus a fee of $5 per dose to offset the cost of secure storage and

delivery of medication. Revenues generated pursuant to this act shall be deposited to the general fund.

(5) Nothing in this section shall diminish any existing authority of the department.

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

(a) "Abortion medications" means substances used in the course of medical treatment intended to induce the termination of a pregnancy including, but not limited to, mifepristone.

(b) "Deliver" has the same meaning as in RCW 18.64.011.

(c) "Dispense" has the same meaning as in RCW 18.64.011.

(d) "Distribute" has the same meaning as in RCW 18.64.011.

(e) "Health care entity" means a hospital, clinic, pharmacy, office, or similar setting where a health care provider provides health care to patients.

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

(g) "Person" has the same meaning as in RCW 18.64.011.

(h) "Practice of pharmacy" has the same meaning as in RCW 18.64.011.

(i) "Wholesale distribution" has the same meaning as in WAC 246-945-001.

Sec. 3. RCW 18.64.046 and 2013 c 19 s 9 are each amended to read as follows:

(1) ((~~The~~)) Except as provided in subsection (6)(b) of this section, the owner of each place of business which sells legend drugs and nonprescription drugs, or nonprescription drugs at wholesale shall pay a license fee to be determined by the secretary, and thereafter, on or before a date to be determined by the secretary as provided in RCW 43.70.250 and 43.70.280, a like fee to be determined by the secretary, for which the owner shall receive a license of location from the department, which shall entitle such owner to either sell legend drugs and nonprescription drugs or nonprescription drugs at wholesale at the location specified for the period ending on a date to be determined by the secretary, and each such owner shall at the time of payment of such fee file with the department, on a blank therefor provided, a declaration of ownership and location, which declaration of ownership and location so filed as aforesaid shall be deemed presumptive evidence of the ownership of such place of business mentioned therein. It shall be the duty of the owner to notify immediately the department of any change of location and ownership and to keep the license of location or the renewal thereof properly exhibited in such place of business.

(2) Failure to conform with this section is a misdemeanor, and each day that the failure continues is a separate offense.

(3) In event the license fee remains unpaid on the date due, no renewal or new license shall be issued except upon compliance with administrative procedures, administrative requirements, and fees determined as provided in RCW 43.70.250 and 43.70.280.

(4) No wholesaler may sell any quantity of drug products containing ephedrine, pseudoephedrine, phenylpropanolamine, or their salts, isomers, or salts of isomers, if the total monthly sales of these products to persons within the state of Washington exceed five percent of the wholesaler's total prior monthly sales of nonprescription drugs to persons within the state in March through October. In November through February, no wholesaler may sell any quantity of drug products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers if the total monthly sales of these

products to persons within the state of Washington exceed ten percent of the wholesaler's total prior monthly sales of nonprescription drugs to persons within the state. For purposes of this section, monthly sales means total dollars paid by buyers. The commission may suspend or revoke the license of any wholesaler that violates this section.

(5) The commission may exempt a wholesaler from the limitations of subsection (4) of this section if it finds that the wholesaler distributes nonprescription drugs only through transactions between divisions, subsidiaries, or related companies when the wholesaler and the retailer are related by common ownership, and that neither the wholesaler nor the retailer has a history of suspicious transactions in precursor drugs as defined in RCW 69.43.035.

(6)(a) The requirements for a license apply to all persons, in Washington and outside of Washington, who sell both legend drugs and nonprescription drugs and to those who sell only nonprescription drugs, at wholesale to pharmacies, practitioners, and shopkeepers in Washington.

(b) For purposes of the actions authorized by section 1 of this act, the department of corrections is exempt from obtaining a wholesaler license as required by this section.

(7)(a) No wholesaler may sell any product containing any detectable quantity of ephedrine, pseudoephedrine, phenylpropanolamine, or their salts, isomers, or salts of isomers, to any person in Washington other than a pharmacy licensed under this chapter, a shopkeeper or itinerant vendor registered under this chapter, a practitioner as defined in RCW 18.64.011, or a traditional Chinese herbal practitioner as defined in RCW 69.43.105.

(b) A violation of this subsection is punishable as a class C felony according to chapter 9A.20 RCW, and each sale in violation of this subsection constitutes a separate offense.

NEW SECTION. **Sec. 4.** This act applies retroactively and prospectively.

NEW SECTION. **Sec. 5.** The provision of this act shall be liberally construed to give effect to the policies and purposes of this act.

NEW SECTION. **Sec. 6.** 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.

Passed by the Senate April 14, 2023.
Passed by the House April 20, 2023.
Approved by the Governor April 27, 2023.
Filed in Office of Secretary of State April 27, 2023.

CHAPTER 196

[House Bill 1002]

HAZING—PENALTY

AN ACT Relating to increasing the penalty for hazing; amending RCW 28B.10.901, 9.94A.411, 9.94A.515, and 9A.46.060; creating a new section; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 28B.10.901 and 1993 c 514 s 2 are each amended to read as follows:

(1) No student, or other person in attendance at any public or private institution of higher education, or any other postsecondary educational institution, may ((~~conspire to engage in hazing or participate in hazing of~~)) intentionally haze another.

(2) ((~~A~~)) (a) Except as provided in (b) of this subsection, a violation of subsection (1) of this section is a gross misdemeanor, punishable as provided under RCW 9A.20.021.

(b) A violation of subsection (1) of this section that causes substantial bodily harm, as defined in RCW 9A.04.110, to another person is a class C felony.

(3) Any student organization, association, or student living group that ((~~knowingly~~)) permits hazing is strictly liable for ((~~harm~~)) damages caused to persons or property resulting from hazing. If the student organization, association, or student living group is a corporation whether for profit or nonprofit, the individual directors of the corporation may be held individually liable for damages.

Sec. 2. RCW 9.94A.411 and 2021 c 215 s 98 are each amended to read as follows:

(1) Decision not to prosecute.

STANDARD: A prosecuting attorney may decline to prosecute, even though technically sufficient evidence to prosecute exists, in situations where prosecution would serve no public purpose, would defeat the underlying purpose of the law in question or would result in decreased respect for the law.

GUIDELINE/COMMENTARY:

Examples

The following are examples of reasons not to prosecute which could satisfy the standard.

(a) Contrary to Legislative Intent - It may be proper to decline to charge where the application of criminal sanctions would be clearly contrary to the intent of the legislature in enacting the particular statute.

(b) Antiquated Statute - It may be proper to decline to charge where the statute in question is antiquated in that:

(i) It has not been enforced for many years; and

(ii) Most members of society act as if it were no longer in existence; and

(iii) It serves no deterrent or protective purpose in today's society; and

(iv) The statute has not been recently reconsidered by the legislature.

This reason is not to be construed as the basis for declining cases because the law in question is unpopular or because it is difficult to enforce.

(c) De Minimis Violation - It may be proper to decline to charge where the violation of law is only technical or insubstantial and where no public interest or deterrent purpose would be served by prosecution.

(d) Confinement on Other Charges - It may be proper to decline to charge because the accused has been sentenced on another charge to a lengthy period of confinement; and

(i) Conviction of the new offense would not merit any additional direct or collateral punishment;

(ii) The new offense is either a misdemeanor or a felony which is not particularly aggravated; and

(iii) Conviction of the new offense would not serve any significant deterrent purpose.

(e) Pending Conviction on Another Charge - It may be proper to decline to charge because the accused is facing a pending prosecution in the same or another county; and

(i) Conviction of the new offense would not merit any additional direct or collateral punishment;

(ii) Conviction in the pending prosecution is imminent;

(iii) The new offense is either a misdemeanor or a felony which is not particularly aggravated; and

(iv) Conviction of the new offense would not serve any significant deterrent purpose.

(f) High Disproportionate Cost of Prosecution - It may be proper to decline to charge where the cost of locating or transporting, or the burden on, prosecution witnesses is highly disproportionate to the importance of prosecuting the offense in question. This reason should be limited to minor cases and should not be relied upon in serious cases.

(g) Improper Motives of Complainant - It may be proper to decline charges because the motives of the complainant are improper and prosecution would serve no public purpose, would defeat the underlying purpose of the law in question or would result in decreased respect for the law.

(h) Immunity - It may be proper to decline to charge where immunity is to be given to an accused in order to prosecute another where the accused's information or testimony will reasonably lead to the conviction of others who are responsible for more serious criminal conduct or who represent a greater danger to the public interest.

(i) Victim Request - It may be proper to decline to charge because the victim requests that no criminal charges be filed and the case involves the following crimes or situations:

(i) Assault cases where the victim has suffered little or no injury;

(ii) Crimes against property, not involving violence, where no major loss was suffered;

(iii) Where doing so would not jeopardize the safety of society.

Care should be taken to insure that the victim's request is freely made and is not the product of threats or pressure by the accused.

The presence of these factors may also justify the decision to dismiss a prosecution which has been commenced.

Notification

The prosecutor is encouraged to notify the victim, when practical, and the law enforcement personnel, of the decision not to prosecute.

(2) Decision to prosecute.

(a) STANDARD:

Crimes against persons will be filed if sufficient admissible evidence exists, which, when considered with the most plausible, reasonably foreseeable defense that could be raised under the evidence, would justify conviction by a reasonable and objective fact finder. With regard to offenses prohibited by RCW 9A.44.040, 9A.44.050, 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, 9A.44.089, and 9A.64.020 the prosecutor should avoid prefiling agreements or diversions intended to place the accused in a program of treatment or counseling,

so that treatment, if determined to be beneficial, can be provided pursuant to RCW 9.94A.670.

Crimes against property/other crimes will be filed if the admissible evidence is of such convincing force as to make it probable that a reasonable and objective fact finder would convict after hearing all the admissible evidence and the most plausible defense that could be raised.

See table below for the crimes within these categories.

CATEGORIZATION OF CRIMES FOR PROSECUTING STANDARDS

CRIMES AGAINST PERSONS
Aggravated Murder (RCW 10.95.020)
1st Degree Murder (RCW 9A.32.030)
2nd Degree Murder (RCW 9A.32.050)
1st Degree Manslaughter (RCW 9A.32.060)
2nd Degree Manslaughter (RCW 9A.32.070)
1st Degree Kidnapping (RCW 9A.40.020)
2nd Degree Kidnapping (RCW 9A.40.030)
1st Degree Assault (RCW 9A.36.011)
2nd Degree Assault (RCW 9A.36.021)
3rd Degree Assault (RCW 9A.36.031)
4th Degree Assault (if a violation of RCW 9A.36.041(3))
1st Degree Assault of a Child (RCW 9A.36.120)
2nd Degree Assault of a Child (RCW 9A.36.130)
3rd Degree Assault of a Child (RCW 9A.36.140)
1st Degree Rape (RCW 9A.44.040)
2nd Degree Rape (RCW 9A.44.050)
3rd Degree Rape (RCW 9A.44.060)
1st Degree Rape of a Child (RCW 9A.44.073)
2nd Degree Rape of a Child (RCW 9A.44.076)
3rd Degree Rape of a Child (RCW 9A.44.079)
1st Degree Robbery (RCW 9A.56.200)
2nd Degree Robbery (RCW 9A.56.210)
1st Degree Arson (RCW 9A.48.020)
1st Degree Burglary (RCW 9A.52.020)
1st Degree Identity Theft (RCW 9.35.020(2))
2nd Degree Identity Theft (RCW 9.35.020(3))
1st Degree Extortion (RCW 9A.56.120)
2nd Degree Extortion (RCW 9A.56.130)
1st Degree Criminal Mistreatment (RCW 9A.42.020)
2nd Degree Criminal Mistreatment (RCW 9A.42.030)
1st Degree Theft from a Vulnerable Adult (RCW 9A.56.400(1))
2nd Degree Theft from a Vulnerable Adult (RCW 9A.56.400(2))
Indecent Liberties (RCW 9A.44.100)
Incest (RCW 9A.64.020)
Vehicular Homicide (RCW 46.61.520)
Vehicular Assault (RCW 46.61.522)
1st Degree Child Molestation (RCW 9A.44.083)
2nd Degree Child Molestation (RCW 9A.44.086)
3rd Degree Child Molestation (RCW 9A.44.089)

1st Degree Promoting Prostitution (RCW 9A.88.070)
Intimidating a Juror (RCW 9A.72.130)
Communication with a Minor (RCW 9.68A.090)
Intimidating a Witness (RCW 9A.72.110)
Intimidating a Public Servant (RCW 9A.76.180)
Bomb Threat (if against person) (RCW 9.61.160)
Unlawful Imprisonment (RCW 9A.40.040)
Promoting a Suicide Attempt (RCW 9A.36.060)
Criminal Mischief (if against person) (RCW 9A.84.010)
Stalking (RCW 9A.46.110)
Custodial Assault (RCW 9A.36.100)
Domestic Violence Court Order Violation (RCW 7.105.450, 10.99.040, 10.99.050, 26.09.300, ((~~26.10.220,~~)) 26.26B.050, or 26.52.070, or any of the former RCW 26.50.110 and 74.34.145)
Counterfeiting (if a violation of RCW 9.16.035(4))
Felony Driving a Motor Vehicle While Under the Influence of Intoxicating Liquor or Any Drug (RCW 46.61.502(6))
Felony Physical Control of a Motor Vehicle While Under the Influence of Intoxicating Liquor or Any Drug (RCW 46.61.504(6))
Felony Hazing (RCW 28B.10.901(2)(b))

CRIMES AGAINST PROPERTY/OTHER CRIMES
2nd Degree Arson (RCW 9A.48.030)
1st Degree Escape (RCW 9A.76.110)
2nd Degree Escape (RCW 9A.76.120)
2nd Degree Burglary (RCW 9A.52.030)
1st Degree Theft (RCW 9A.56.030)
2nd Degree Theft (RCW 9A.56.040)
1st Degree Perjury (RCW 9A.72.020)
2nd Degree Perjury (RCW 9A.72.030)
1st Degree Introducing Contraband (RCW 9A.76.140)
2nd Degree Introducing Contraband (RCW 9A.76.150)
1st Degree Possession of Stolen Property (RCW 9A.56.150)
2nd Degree Possession of Stolen Property (RCW 9A.56.160)
Bribery (RCW 9A.68.010)
Bribing a Witness (RCW 9A.72.090)
Bribe received by a Witness (RCW 9A.72.100)
Bomb Threat (if against property) (RCW 9.61.160)
1st Degree Malicious Mischief (RCW 9A.48.070)
2nd Degree Malicious Mischief (RCW 9A.48.080)
1st Degree Reckless Burning (RCW 9A.48.040)
Taking a Motor Vehicle without Authorization (RCW 9A.56.070 and 9A.56.075)
Forgery (RCW 9A.60.020)
2nd Degree Promoting Prostitution (RCW 9A.88.080)
Tampering with a Witness (RCW 9A.72.120)
Trading in Public Office (RCW 9A.68.040)
Trading in Special Influence (RCW 9A.68.050)
Receiving/Granting Unlawful Compensation (RCW 9A.68.030)

Bigamy (RCW 9A.64.010)
Eluding a Pursuing Police Vehicle (RCW 46.61.024)
Willful Failure to Return from Furlough
Escape from Community Custody
Criminal Mischief (if against property) (RCW 9A.84.010)
1st Degree Theft of Livestock (RCW 9A.56.080)
2nd Degree Theft of Livestock (RCW 9A.56.083)

ALL OTHER UNCLASSIFIED FELONIES
Selection of Charges/Degree of Charge
(i) The prosecutor should file charges which adequately describe the nature of defendant's conduct. Other offenses may be charged only if they are necessary to ensure that the charges:
(A) Will significantly enhance the strength of the state's case at trial; or
(B) Will result in restitution to all victims.
(ii) The prosecutor should not overcharge to obtain a guilty plea. Overcharging includes:
(A) Charging a higher degree;
(B) Charging additional counts.
This standard is intended to direct prosecutors to charge those crimes which demonstrate the nature and seriousness of a defendant's criminal conduct, but to decline to charge crimes which are not necessary to such an indication. Crimes which do not merge as a matter of law, but which arise from the same course of conduct, do not all have to be charged.

(b) GUIDELINES/COMMENTARY:
(i) Police Investigation
A prosecuting attorney is dependent upon law enforcement agencies to conduct the necessary factual investigation which must precede the decision to prosecute. The prosecuting attorney shall ensure that a thorough factual investigation has been conducted before a decision to prosecute is made. In ordinary circumstances the investigation should include the following:
(A) The interviewing of all material witnesses, together with the obtaining of written statements whenever possible;
(B) The completion of necessary laboratory tests; and
(C) The obtaining, in accordance with constitutional requirements, of the suspect's version of the events.
If the initial investigation is incomplete, a prosecuting attorney should insist upon further investigation before a decision to prosecute is made, and specify what the investigation needs to include.
(ii) Exceptions
In certain situations, a prosecuting attorney may authorize filing of a criminal complaint before the investigation is complete if:
(A) Probable cause exists to believe the suspect is guilty; and
(B) The suspect presents a danger to the community or is likely to flee if not apprehended; or
(C) The arrest of the suspect is necessary to complete the investigation of the crime.
In the event that the exception to the standard is applied, the prosecuting attorney shall obtain a commitment from the law enforcement agency involved

to complete the investigation in a timely manner. If the subsequent investigation does not produce sufficient evidence to meet the normal charging standard, the complaint should be dismissed.

(iii) Investigation Techniques

The prosecutor should be fully advised of the investigatory techniques that were used in the case investigation including:

(A) Polygraph testing;

(B) Hypnosis;

(C) Electronic surveillance;

(D) Use of informants.

(iv) Prefiling Discussions with Defendant

Discussions with the defendant or his/her representative regarding the selection or disposition of charges may occur prior to the filing of charges, and potential agreements can be reached.

(v) Prefiling Discussions with Victim(s)

Discussions with the victim(s) or victims' representatives regarding the selection or disposition of charges may occur before the filing of charges. The discussions may be considered by the prosecutor in charging and disposition decisions, and should be considered before reaching any agreement with the defendant regarding these decisions.

Sec. 3. RCW 9.94A.515 and 2022 c 231 s 13 are each amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055)
	Malicious explosion 1 (RCW 70.74.280(1))
	Murder 1 (RCW 9A.32.030)
XIV	Murder 2 (RCW 9A.32.050)
	Trafficking 1 (RCW 9A.40.100(1))
XIII	Malicious explosion 2 (RCW 70.74.280(2))
	Malicious placement of an explosive 1 (RCW 70.74.270(1))
XII	Assault 1 (RCW 9A.36.011)
	Assault of a Child 1 (RCW 9A.36.120)
	Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))
	Promoting Commercial Sexual Abuse of a Minor (RCW 9.68A.101)
	Rape 1 (RCW 9A.44.040)

	CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL
	Rape of a Child 1 (RCW 9A.44.073)
	Trafficking 2 (RCW 9A.40.100(3))
XI	Manslaughter 1 (RCW 9A.32.060)
	Rape 2 (RCW 9A.44.050)
	Rape of a Child 2 (RCW 9A.44.076)
	Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)
	Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)
X	Child Molestation 1 (RCW 9A.44.083)
	Criminal Mistreatment 1 (RCW 9A.42.020)
	Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))
	Kidnapping 1 (RCW 9A.40.020)
	Leading Organized Crime (RCW 9A.82.060(1)(a))
	Malicious explosion 3 (RCW 70.74.280(3))
	Sexually Violent Predator Escape (RCW 9A.76.115)
IX	Abandonment of Dependent Person 1 (RCW 9A.42.060)
	Assault of a Child 2 (RCW 9A.36.130)
	Explosive devices prohibited (RCW 70.74.180)
	Hit and Run—Death (RCW 46.52.020(4)(a))
	Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050)
	Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
	Malicious placement of an explosive 2 (RCW 70.74.270(2))
	Robbery 1 (RCW 9A.56.200)

	CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL
	Sexual Exploitation (RCW 9.68A.040)
VIII	Arson 1 (RCW 9A.48.020)
	Commercial Sexual Abuse of a Minor (RCW 9.68A.100)
	Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)
	Manslaughter 2 (RCW 9A.32.070)
	Promoting Prostitution 1 (RCW 9A.88.070)
	Theft of Ammonia (RCW 69.55.010)
VII	Air bag diagnostic systems (causing bodily injury or death) (RCW 46.37.660(2)(b))
	Air bag replacement requirements (causing bodily injury or death) (RCW 46.37.660(1)(b))
	Burglary 1 (RCW 9A.52.020)
	Child Molestation 2 (RCW 9A.44.086)
	Civil Disorder Training (RCW 9A.48.120)
	Dealing in depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.050(1))
	Drive-by Shooting (RCW 9A.36.045)
	False Reporting 1 (RCW 9A.84.040(2)(a))
	Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)
	Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))
	Introducing Contraband 1 (RCW 9A.76.140)
	Malicious placement of an explosive 3 (RCW 70.74.270(3))

	CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL
	Manufacture or import counterfeit, nonfunctional, damaged, or previously deployed air bag (causing bodily injury or death) (RCW 46.37.650(1)(b))
	Negligently Causing Death By Use of a Signal Preemption Device (RCW 46.37.675)
	Sell, install, or reinstall counterfeit, nonfunctional, damaged, or previously deployed airbag (RCW 46.37.650(2)(b))
	Sending, bringing into state depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.060(1))
	Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1))
	Use of a Machine Gun or Bump-fire Stock in Commission of a Felony (RCW 9.41.225)
	Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
VI	Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a))
	Bribery (RCW 9A.68.010)
	Incest 1 (RCW 9A.64.020(1))
	Intimidating a Judge (RCW 9A.72.160)
	Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
	Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))
	Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.070(1))
	Rape of a Child 3 (RCW 9A.44.079)
	Theft of a Firearm (RCW 9A.56.300)
	Theft from a Vulnerable Adult 1 (RCW 9A.56.400(1))

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

Unlawful Storage of Ammonia (RCW 69.55.020)

V Abandonment of Dependent Person 2 (RCW 9A.42.070)

Advancing money or property for extortionate extension of credit (RCW 9A.82.030)

Air bag diagnostic systems (RCW 46.37.660(2)(c))

Air bag replacement requirements (RCW 46.37.660(1)(c))

Bail Jumping with class A Felony (RCW 9A.76.170(3)(b))

Child Molestation 3 (RCW 9A.44.089)

Criminal Mistreatment 2 (RCW 9A.42.030)

Custodial Sexual Misconduct 1 (RCW 9A.44.160)

Dealing in Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.050(2))

Domestic Violence Court Order Violation (RCW 7.105.450, 10.99.040, 10.99.050, 26.09.300, ((~~26.10.220,~~)) 26.26B.050, ((~~26.50.110,~~)) or 26.52.070((~~, or 74.34.145~~)))

Extortion 1 (RCW 9A.56.120)

Extortionate Extension of Credit (RCW 9A.82.020)

Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)

Incest 2 (RCW 9A.64.020(2))

Kidnapping 2 (RCW 9A.40.030)

Manufacture or import counterfeit, nonfunctional, damaged, or previously deployed air bag (RCW 46.37.650(1)(c))

Perjury 1 (RCW 9A.72.020)

	CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL
	Persistent prison misbehavior (RCW 9.94.070)
	Possession of a Stolen Firearm (RCW 9A.56.310)
	Rape 3 (RCW 9A.44.060)
	Rendering Criminal Assistance 1 (RCW 9A.76.070)
	Sell, install, or reinstall counterfeit, nonfunctional, damaged, or previously deployed airbag (RCW 46.37.650(2)(c))
	Sending, Bringing into State Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.060(2))
	Sexual Misconduct with a Minor 1 (RCW 9A.44.093)
	Sexually Violating Human Remains (RCW 9A.44.105)
	Stalking (RCW 9A.46.110)
	Taking Motor Vehicle Without Permission 1 (RCW 9A.56.070)
IV	Arson 2 (RCW 9A.48.030)
	Assault 2 (RCW 9A.36.021)
	Assault 3 (of a Peace Officer with a Projectile Stun Gun) (RCW 9A.36.031(1)(h))
	Assault 4 (third domestic violence offense) (RCW 9A.36.041(3))
	Assault by Watercraft (RCW 79A.60.060)
	Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
	Cheating 1 (RCW 9.46.1961)
	Commercial Bribery (RCW 9A.68.060)
	Counterfeiting (RCW 9.16.035(4))
	Driving While Under the Influence (RCW 46.61.502(6))

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

Endangerment with a Controlled Substance (RCW 9A.42.100)

Escape 1 (RCW 9A.76.110)

Hate Crime (RCW 9A.36.080)

Hit and Run—Injury (RCW 46.52.020(4)(b))

Hit and Run with Vessel—Injury Accident (RCW 79A.60.200(3))

Identity Theft 1 (RCW 9.35.020(2))

Indecent Exposure to Person Under Age 14 (subsequent sex offense) (RCW 9A.88.010)

Influencing Outcome of Sporting Event (RCW 9A.82.070)

Physical Control of a Vehicle While Under the Influence (RCW 46.61.504(6))

Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.070(2))

Residential Burglary (RCW 9A.52.025)

Robbery 2 (RCW 9A.56.210)

Theft of Livestock 1 (RCW 9A.56.080)

Threats to Bomb (RCW 9.61.160)

Trafficking in Stolen Property 1 (RCW 9A.82.050)

Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(b))

Unlawful transaction of health coverage as a health care service contractor (RCW 48.44.016(3))

Unlawful transaction of health coverage as a health maintenance organization (RCW 48.46.033(3))

Unlawful transaction of insurance business (RCW 48.15.023(3))

	CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL
	Unlicensed practice as an insurance professional (RCW 48.17.063(2))
	Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))
	Vehicle Prowling 2 (third or subsequent offense) (RCW 9A.52.100(3))
	Vehicular Assault, by being under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522)
	Viewing of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.075(1))
	((~~Willful Failure to Return from Furlough (RCW 72.66.060)~~))
III	Animal Cruelty 1 (Sexual Conduct or Contact) (RCW 16.52.205(3))
	Assault 3 (Except Assault 3 of a Peace Officer With a Projectile Stun Gun) (RCW 9A.36.031 except subsection (1)(h))
	Assault of a Child 3 (RCW 9A.36.140)
	Bail Jumping with class B or C Felony (RCW 9A.76.170(3)(c))
	Burglary 2 (RCW 9A.52.030)
	Communication with a Minor for Immoral Purposes (RCW 9.68A.090)
	Criminal Gang Intimidation (RCW 9A.46.120)
	Custodial Assault (RCW 9A.36.100)
	Cyber Harassment (RCW 9A.90.120(2)(b))
	Escape 2 (RCW 9A.76.120)
	Extortion 2 (RCW 9A.56.130)
	False Reporting 2 (RCW 9A.84.040(2)(b))
	Harassment (RCW 9A.46.020)

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

Hazing (RCW 28B.10.901(2)(b))

Intimidating a Public Servant (RCW 9A.76.180)

Introducing Contraband 2 (RCW 9A.76.150)

Malicious Injury to Railroad Property (RCW 81.60.070)

Manufacture of Untraceable Firearm with Intent to Sell (RCW 9.41.190)

Manufacture or Assembly of an Undetectable Firearm or Untraceable Firearm (RCW 9.41.325)

Mortgage Fraud (RCW 19.144.080)

Negligently Causing Substantial Bodily Harm By Use of a Signal Preemption Device (RCW 46.37.674)

Organized Retail Theft 1 (RCW 9A.56.350(2))

Perjury 2 (RCW 9A.72.030)

Possession of Incendiary Device (RCW 9.40.120)

Possession of Machine Gun, Bump-Fire Stock, Undetectable Firearm, or Short-Barreled Shotgun or Rifle (RCW 9.41.190)

Promoting Prostitution 2 (RCW 9A.88.080)

Retail Theft with Special Circumstances 1 (RCW 9A.56.360(2))

Securities Act violation (RCW 21.20.400)

Tampering with a Witness (RCW 9A.72.120)

Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230(2))

Theft of Livestock 2 (RCW 9A.56.083)

Theft with the Intent to Resell 1 (RCW 9A.56.340(2))

	CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL
	Trafficking in Stolen Property 2 (RCW 9A.82.055)
	Unlawful Hunting of Big Game 1 (RCW 77.15.410(3)(b))
	Unlawful Imprisonment (RCW 9A.40.040)
	Unlawful Misbranding of Fish or Shellfish 1 (RCW 77.140.060(3))
	Unlawful possession of firearm in the second degree (RCW 9.41.040(2))
	Unlawful Taking of Endangered Fish or Wildlife 1 (RCW 77.15.120(3)(b))
	Unlawful Trafficking in Fish, Shellfish, or Wildlife 1 (RCW 77.15.260(3)(b))
	Unlawful Use of a Nondesignated Vessel (RCW 77.15.530(4))
	Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)
	((~~Willful Failure to Return from Work Release (RCW 72.65.070)~~))
II	Commercial Fishing Without a License 1 (RCW 77.15.500(3)(b))
	Computer Trespass 1 (RCW 9A.90.040)
	Counterfeiting (RCW 9.16.035(3))
	Electronic Data Service Interference (RCW 9A.90.060)
	Electronic Data Tampering 1 (RCW 9A.90.080)
	Electronic Data Theft (RCW 9A.90.100)
	Engaging in Fish Dealing Activity Unlicensed 1 (RCW 77.15.620(3))
	Escape from Community Custody (RCW 72.09.310)
	Failure to Register as a Sex Offender (second or subsequent offense) (RCW 9A.44.130 prior to June 10, 2010, and RCW 9A.44.132)

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

Health Care False Claims (RCW 48.80.030)

Identity Theft 2 (RCW 9.35.020(3))

Improperly Obtaining Financial Information (RCW 9.35.010)

Malicious Mischief 1 (RCW 9A.48.070)

Organized Retail Theft 2 (RCW 9A.56.350(3))

Possession of Stolen Property 1 (RCW 9A.56.150)

Possession of a Stolen Vehicle (RCW 9A.56.068)

Retail Theft with Special Circumstances 2 (RCW 9A.56.360(3))

Scrap Processing, Recycling, or Supplying Without a License (second or subsequent offense) (RCW 19.290.100)

Theft 1 (RCW 9A.56.030)

Theft of a Motor Vehicle (RCW 9A.56.065)

Theft of Rental, Leased, Lease-purchased, or Loaned Property (valued at $5,000 or more) (RCW 9A.56.096(5)(a))

Theft with the Intent to Resell 2 (RCW 9A.56.340(3))

Trafficking in Insurance Claims (RCW 48.30A.015)

Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(a))

Unlawful Participation of Non-Indians in Indian Fishery (RCW 77.15.570(2))

Unlawful Practice of Law (RCW 2.48.180)

Unlawful Purchase or Use of a License (RCW 77.15.650(3)(b))

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

Unlawful Trafficking in Fish, Shellfish, or Wildlife 2 (RCW 77.15.260(3)(a))

Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))

Voyeurism 1 (RCW 9A.44.115)

I Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)

False Verification for Welfare (RCW 74.08.055)

Forgery (RCW 9A.60.020)

Fraudulent Creation or Revocation of a Mental Health Advance Directive (RCW 9A.60.060)

Malicious Mischief 2 (RCW 9A.48.080)

Mineral Trespass (RCW 78.44.330)

Possession of Stolen Property 2 (RCW 9A.56.160)

Reckless Burning 1 (RCW 9A.48.040)

Spotlighting Big Game 1 (RCW 77.15.450(3)(b))

Suspension of Department Privileges 1 (RCW 77.15.670(3)(b))

Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075)

Theft 2 (RCW 9A.56.040)

Theft from a Vulnerable Adult 2 (RCW 9A.56.400(2))

Theft of Rental, Leased, Lease-purchased, or Loaned Property (valued at $750 or more but less than $5,000) (RCW 9A.56.096(5)(b))

Transaction of insurance business beyond the scope of licensure (RCW 48.17.063)

Unlawful Fish and Shellfish Catch Accounting (RCW 77.15.630(3)(b))

Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

Unlawful Possession of Fictitious Identification (RCW 9A.56.320)

Unlawful Possession of Instruments of Financial Fraud (RCW 9A.56.320)

Unlawful Possession of Payment Instruments (RCW 9A.56.320)

Unlawful Possession of a Personal Identification Device (RCW 9A.56.320)

Unlawful Production of Payment Instruments (RCW 9A.56.320)

Unlawful Releasing, Planting, Possessing, or Placing Deleterious Exotic Wildlife (RCW 77.15.250(2)(b))

Unlawful Trafficking in Food Stamps (RCW 9.91.142)

Unlawful Use of Food Stamps (RCW 9.91.144)

Unlawful Use of Net to Take Fish 1 (RCW 77.15.580(3)(b))

((~~Unlawful Use of Prohibited Aquatic Animal Species (RCW 77.15.253(3))~~))

Vehicle Prowl 1 (RCW 9A.52.095)

Violating Commercial Fishing Area or Time 1 (RCW 77.15.550(3)(b))

Sec. 4. RCW 9A.46.060 and 2022 c 231 s 15 are each amended to read as follows:

As used in this chapter, "harassment" may include but is not limited to any of the following crimes:

(1) Harassment (RCW 9A.46.020);

(2) Hate crime (RCW 9A.36.080);

(3) Telephone harassment (RCW 9.61.230);

(4) Assault in the first degree (RCW 9A.36.011);

(5) Assault of a child in the first degree (RCW 9A.36.120);

(6) Assault in the second degree (RCW 9A.36.021);

(7) Assault of a child in the second degree (RCW 9A.36.130);

(8) Assault in the fourth degree (RCW 9A.36.041);

(9) Reckless endangerment (RCW 9A.36.050);

(10) Extortion in the first degree (RCW 9A.56.120);

(11) Extortion in the second degree (RCW 9A.56.130);
(12) Coercion (RCW 9A.36.070);
(13) Burglary in the first degree (RCW 9A.52.020);
(14) Burglary in the second degree (RCW 9A.52.030);
(15) Criminal trespass in the first degree (RCW 9A.52.070);
(16) Criminal trespass in the second degree (RCW 9A.52.080);
(17) Malicious mischief in the first degree (RCW 9A.48.070);
(18) Malicious mischief in the second degree (RCW 9A.48.080);
(19) Malicious mischief in the third degree (RCW 9A.48.090);
(20) Kidnapping in the first degree (RCW 9A.40.020);
(21) Kidnapping in the second degree (RCW 9A.40.030);
(22) Unlawful imprisonment (RCW 9A.40.040);
(23) Rape in the first degree (RCW 9A.44.040);
(24) Rape in the second degree (RCW 9A.44.050);
(25) Rape in the third degree (RCW 9A.44.060);
(26) Indecent liberties (RCW 9A.44.100);
(27) Rape of a child in the first degree (RCW 9A.44.073);
(28) Rape of a child in the second degree (RCW 9A.44.076);
(29) Rape of a child in the third degree (RCW 9A.44.079);
(30) Child molestation in the first degree (RCW 9A.44.083);
(31) Child molestation in the second degree (RCW 9A.44.086);
(32) Child molestation in the third degree (RCW 9A.44.089);
(33) Stalking (RCW 9A.46.110);
(34) Cyber harassment (RCW 9A.90.120);
(35) Residential burglary (RCW 9A.52.025);
(36) Violation of a temporary, permanent, or final protective order issued pursuant to chapter 9A.44, 9A.46, 10.99, or 26.09 RCW or any of the former chapters 7.90, 10.14, and 26.50 RCW, or violation of a domestic violence protection order, sexual assault protection order, or antiharassment protection order issued under chapter 7.105 RCW;
(37) Unlawful discharge of a laser in the first degree (RCW 9A.49.020); ((~~and~~))
(38) Unlawful discharge of a laser in the second degree (RCW 9A.49.030)**;** and
(39) Felony hazing (RCW 28B.10.901(2)(b)).

NEW SECTION. **Sec. 5.** This act may be known and cited as the Sam Martinez stop hazing law.

Passed by the House April 13, 2023.
Passed by the Senate April 5, 2023.
Approved by the Governor May 1, 2023.
Filed in Office of Secretary of State May 2, 2023.

CHAPTER 197

[Second Substitute House Bill 1028]

CRIME VICTIMS AND WITNESSES—SEXUAL ASSAULT—VARIOUS PROVISIONS

AN ACT Relating to supporting crime victims and witnesses by promoting victim-centered, trauma-informed responses in the legal system; amending RCW 43.101.272, 43.101.276, 43.101.278, 43.43.754, 9A.04.080, 9A.44.020, and 7.69.030; adding a new section to chapter 43.10

RCW; adding new sections to chapter 43.101 RCW; adding a new section to chapter 70.02 RCW; creating a new section; providing an effective date; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 43.10 RCW to read as follows:

(1)(a) The sexual assault forensic examination best practices advisory group is established within the office of the attorney general for the purpose of reviewing best practice models for managing all aspects of sexual assault investigations and for reducing the number of untested sexual assault kits in Washington state.

(i) The caucus leaders from the senate shall appoint one member from each of the two largest caucuses of the senate.

(ii) The caucus leaders from the house of representatives shall appoint one member from each of the two largest caucuses of the house of representatives.

(iii) The attorney general, in consultation with the legislative members of the advisory group, shall appoint:

(A) One member representing each of the following:

(I) The Washington state patrol;

(II) The Washington association of sheriffs and police chiefs;

(III) The Washington association of prosecuting attorneys;

(IV) The Washington defender association or the Washington association of criminal defense lawyers;

(V) The Washington association of cities;

(VI) The Washington association of county officials;

(VII) The Washington coalition of sexual assault programs;

(VIII) The office of crime victims advocacy;

(IX) The Washington state hospital association;

(X) The office of the attorney general; and

(XI) The criminal justice training commission;

(B) Two members representing survivors of sexual assault;

(C) One member who is a sexual assault nurse examiner;

(D) Two members who are law enforcement officers, one from a rural area and one from an urban area of the state;

(E) One member who is a prosecuting attorney serving in a county in a rural area of the state; and

(F) Two members who are community-based advocates, one from a rural area and one from an urban area of the state.

(b) When appointing members under (a)(iii)(D) of this subsection, the office of the attorney general shall solicit recommendations from statewide labor organizations representing law enforcement officers.

(2) The duties of the advisory group include, but are not limited to:

(a) Researching the best practice models both in state and from other states for collaborative responses to victims of sexual assault from the point the sexual assault kit is collected to the conclusion of the investigation and prosecution of a case, and providing recommendations regarding any existing gaps in Washington and resources that may be necessary to address those gaps;

(b) Researching and making recommendations on opportunities to increase access to, and availability of, critical sexual assault nurse examiner services;

(c) Monitoring the testing of the backlog of sexual assault kits and the supply chain and distribution of sexual assault kits;

(d) Monitoring implementation of state and federal legislative changes;

(e) Collaborating with the legislature, state agencies, medical facilities, and local governments to implement reforms pursuant to federal grant requirements; and

(f) Making recommendations for institutional reforms necessary to prevent sexual assault and improve the experiences of sexual assault survivors in the criminal justice system.

(3) The office of the attorney general shall administer and provide staff support to the advisory group.

(4) Legislative members of the advisory group must be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members, except those representing an employer or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(5) The advisory group must meet no less than twice annually.

(6) The advisory group shall report its findings and recommendations to the appropriate committees of the legislature and the governor by December 15th of each year.

(7) This section expires July 1, 2026.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.101 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the commission shall administer a grant program for establishing a statewide resource prosecutor for sexual assault cases.

(2) The grant recipient must be a statewide organization or association representing prosecuting attorneys. The grant recipient shall hire a resource prosecutor for the following purposes:

(a) To provide technical assistance and research to prosecutors for prosecuting sexual assault cases;

(b) To provide additional training and resources to prosecutors to support a trauma-informed, victim-centered approach to prosecuting sexual assault cases;

(c) To meet regularly with law enforcement agencies and prosecutors to explain legal issues and prosecutorial approaches to sexual assault cases and provide and receive feedback to improve case outcomes;

(d) To consult with the commission, the office of the attorney general, and the sexual assault forensic examination best practices advisory group under section 1 of this act with respect to developing and implementing best practices for prosecuting sexual assault cases across the state; and

(e) To comply with other requirements established by the commission under this section.

(3) The commission may, in consultation with the sexual assault forensic examination best practices advisory group under section 1 of this act, establish additional appropriate conditions for any grant awarded under this section. The commission may adopt necessary policies and procedures to implement and administer the grant program, including monitoring the use of grant funds and compliance with the grant requirements.

Sec. 3. RCW 43.101.272 and 2019 c 93 s 5 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the commission shall provide ongoing specialized, intensive, and integrative training for persons responsible for investigating sexual assault ((~~cases~~)) and other gender-based violence involving adult victims, and the highest ranking supervisors and commanders overseeing sexual assault and other gender-based violence investigations. The training must be based on a victim-centered, trauma-informed approach to responding to sexual assault. Among other subjects, the training must include content on the neurobiology of trauma and trauma-informed interviewing, counseling, and investigative techniques.

(2) The training must: Be based on research-based practices and standards; offer participants an opportunity to practice interview skills and receive feedback from instructors; minimize the trauma of all persons who are interviewed during abuse investigations; provide methods of reducing the number of investigative interviews necessary whenever possible; assure, to the extent possible, that investigative interviews are thorough, objective, and complete; recognize needs of special populations; recognize the nature and consequences of victimization; require investigative interviews to be conducted in a manner most likely to permit the interviewed persons the maximum emotional comfort under the circumstances; address record retention and retrieval; address documentation of investigative interviews; and educate investigators on the best practices for notifying victims of the results of forensic analysis of sexual assault kits and other significant events in the investigative process, including for active investigations and cold cases.

(3) In developing the training, the commission shall seek advice from the Washington association of sheriffs and police chiefs, the Washington coalition of sexual assault programs, and experts on sexual assault, gender-based violence, and the neurobiology of trauma. The commission shall consult with the Washington association of prosecuting attorneys in an effort to design training containing consistent elements for all professionals engaged in interviewing and interacting with sexual assault victims in the criminal justice system.

(4) ((~~The commission shall develop the training and begin offering it by July 1, 2018.~~)) Officers assigned to regularly investigate sexual assault and other gender-based violence involving adult victims and the highest ranking supervisors and commanders overseeing those investigations shall complete the training within one year of being assigned ((~~or by July 1, 2020, whichever is later~~)).

Sec. 4. RCW 43.101.276 and 2017 c 290 s 5 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the commission shall develop peace officer training on a victim-centered, trauma-informed approach to interacting with victims and responding to ((~~sexual assault~~)) calls involving gender-based violence. The curriculum must: Be ((~~designed for commissioned patrol officers not regularly assigned to investigate sexual assault cases; be~~)) designed for deployment and use within individual law enforcement agencies; include features allowing for it to be used in different environments, which may include multimedia or video components; and allow for law enforcement agencies to host it in small segments at different

times over several days or weeks, including roll calls. The training must include components on available resources for victims including, but not limited to, material on and references to community-based victim advocates.

(2) In developing the training, the commission shall seek advice from the Washington association of sheriffs and police chiefs, the Washington coalition of sexual assault programs, and experts on sexual assault, gender-based violence, and the neurobiology of trauma.

(3) ((~~Beginning in 2018, all law enforcement agencies shall annually host the training for commissioned peace officers. All law enforcement agencies shall, to the extent feasible, consult with and feature local community-based victim advocates during the training.~~)) All peace officers shall complete the training under this section at least once every three years.

Sec. 5. RCW 43.101.278 and 2021 c 118 s 3 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the commission shall conduct an annual case review program. The program must review case files from law enforcement agencies and prosecuting attorneys selected by the commission in order to identify changes to training and investigatory practices necessary to optimize outcomes in sexual assault investigations and prosecutions involving adult victims. The program must include:

(a) An evaluation of whether current training and practices foster a trauma-informed, victim-centered approach to victim interviews and that identifies best practices and current gaps in training and assesses the integration of the community resiliency model;

(b) A comparison of cases involving investigators and interviewers who have participated in training to cases involving investigators and interviewers who have not participated in training;

(c) A comparison of cases involving prosecutors who have participated in the training described in section 6 of this act to cases involving prosecutors who have not participated in such training;

(d) Randomly selected cases for a systematic review to assess whether current practices conform to national best practices for a multidisciplinary approach to investigating and prosecuting sexual assault cases and interacting with survivors; and

(((~~(d)~~))) (e) An analysis of the impact that race and ethnicity have on sexual assault case outcomes.

(2) The case review program may review and access files, including all reports and recordings, pertaining to closed cases involving allegations of adult sexual assault only. Any law enforcement agency or prosecuting attorney selected for the program by the commission shall make requested case files and other documents available to the commission, provided that the case files are not linked to ongoing, open investigations and that redactions may be made where appropriate and necessary. Agencies and prosecuting attorneys shall include available information on the race and ethnicity of all sexual assault victims in the relevant case files provided to the commission. Case files and other documents must be made available to the commission according to appropriate deadlines established by the commission in consultation with the agency or prosecuting attorney.

(3) If a law enforcement agency has not participated in the training under RCW 43.101.272 ((~~by July 1, 2022~~)) or 43.101.276 within the previous 24 months, the commission may prioritize the agency for selection to participate in the program under this section.

(4) In designing and conducting the program, the commission shall consult and collaborate with experts in trauma-informed and victim-centered training, experts in sexual assault investigations and prosecutions, victim advocates, and other stakeholders identified by the commission. The commission may form a multidisciplinary working group for the purpose of carrying out the requirements of this section.

(5) The commission shall submit a report with a summary of its work to the governor and the appropriate committees of the legislature by December 1st of each year.

NEW SECTION. **Sec. 6.** A new section is added to chapter 43.101 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the commission shall, in partnership with the special resource prosecutor under section 2 of this act, develop and conduct specialized, intensive, and integrative training for persons responsible for prosecuting sexual assault cases involving adult victims.

(2) The training must:

(a) Use a victim-centered, trauma-informed approach to prosecuting sexual assaults including, but not limited to, the following goals: Recognizing the nature and consequences of victimization; prioritizing the safety and well-being of victims; and recognizing the needs of special populations;

(b) Include content on the neurobiology of trauma and trauma-informed interviewing, counseling, investigative, and prosecution techniques;

(c) Offer participants an opportunity to practice interview and trial skills, including receiving feedback from instructors;

(d) Share best practices for communicating with victims throughout the criminal justice process;

(e) Include additional content relevant to and informed by best practices for improving outcomes in sexual assault prosecutions, as deemed appropriate by the commission;

(f) Take into account the training under RCW 43.101.272 in order to provide consistent and complimentary training for investigators and prosecutors;

(g) Be designed to qualify for some continuing legal education credits through the Washington state bar association; and

(h) Be offered at least once per calendar year and be deployed in different locations across the state, or through some other broadly accessible means, in order to improve access to the training for prosecutors serving in small offices or rural areas.

Sec. 7. RCW 43.43.754 and 2021 c 215 s 149 are each amended to read as follows:

(1) A biological sample must be collected for purposes of DNA identification analysis from:

(a) Every adult or juvenile individual convicted of a felony, or adjudicated of an offense which if committed by an adult would be a felony, or any of the following crimes (or equivalent juvenile offenses):

(i) Assault in the fourth degree where domestic violence as defined in RCW 9.94A.030 was pleaded and proven (RCW 9A.36.041, 9.94A.030);

(ii) Assault in the fourth degree with sexual motivation (RCW 9A.36.041, 9.94A.835);

(iii) Communication with a minor for immoral purposes (RCW 9.68A.090);

(iv) Custodial sexual misconduct in the second degree (RCW 9A.44.170);

(v) Failure to register (chapter 9A.44 RCW);

(vi) Harassment (RCW 9A.46.020);

(vii) Patronizing a prostitute (RCW 9A.88.110);

(viii) Sexual misconduct with a minor in the second degree (RCW 9A.44.096);

(ix) Stalking (RCW 9A.46.110);

(x) Indecent exposure (RCW 9A.88.010);

(xi) Violation of a sexual assault protection order granted under chapter 7.105 RCW or former chapter 7.90 RCW; and

(b) Every adult or juvenile individual who is required to register under RCW 9A.44.130.

(2)(a) A municipal jurisdiction may also submit any biological sample to the laboratory services bureau of the Washington state patrol for purposes of DNA identification analysis when:

(i) The sample was collected from a defendant upon conviction for a municipal offense where the underlying ordinance does not adopt the relevant state statute by reference but the offense is otherwise equivalent to an offense in subsection (1)(a) of this section;

(ii) The equivalent offense in subsection (1)(a) of this section was an offense for which collection of a biological sample was required under this section at the time of the conviction; and

(iii) The sample was collected on or after June 12, 2008, and before January 1, 2020.

(b) When submitting a biological sample under this subsection, the municipal jurisdiction must include a signed affidavit from the municipal prosecuting authority of the jurisdiction in which the conviction occurred specifying the state crime to which the municipal offense is equivalent.

(3) Law enforcement may submit to the forensic laboratory services bureau of the Washington state patrol, for purposes of DNA identification analysis, any lawfully obtained biological sample within its control from a deceased offender who was previously convicted of an offense under subsection (1)(a) of this section, regardless of the date of conviction.

(4) If the Washington state patrol crime laboratory already has a DNA sample from an individual for a qualifying offense, a subsequent submission is not required to be submitted.

(5) Biological samples shall be collected in the following manner:

(a)(i)(A) For persons convicted of any offense listed in subsection (1)(a) of this section or adjudicated guilty of an equivalent juvenile offense, who do not serve a term of confinement in a department of corrections facility or a department of children, youth, and families facility, and are serving a term of

confinement in a city or county jail facility, the city or county jail facility shall be responsible for obtaining the biological samples prior to the person's release from confinement.

(B) Each city and county jail facility must adopt and implement a policy that collects biological samples from persons convicted of an offense listed in subsection (1)(a) of this section as soon as practicable during the person's term of confinement.

(ii) If the biological sample is not collected prior to the person's release from confinement, the responsible city or county jail facility shall notify the sentencing court within three business days of the person's release that it has released the person without collecting the person's biological sample, and provide the reason for releasing the person without collecting a biological sample. Within 10 days of receiving notice of the person's release, the sentencing court shall schedule a compliance hearing. The jail shall serve or cause to be served notice to the person of the compliance hearing and shall file proof of service with the sentencing court. A representative of the jail shall attend the compliance hearing and obtain the person's biological sample at the hearing. The court may, in its discretion, require the jail to pay attorneys' fees and court costs associated with scheduling and attending the compliance hearing.

(b) The local police department or sheriff's office shall be responsible for obtaining the biological samples for:

(i) Persons convicted of any offense listed in subsection (1)(a) of this section or adjudicated guilty of an equivalent juvenile offense, who do not serve a term of confinement in a department of corrections facility, department of children, youth, and families facility, or a city or county jail facility; and

(ii) Persons who are required to register under RCW 9A.44.130.

(c)(i) For persons convicted of any offense listed in subsection (1)(a) of this section or adjudicated guilty of an equivalent juvenile offense, who are serving or who are to serve a term of confinement in a department of corrections facility or a department of children, youth, and families facility, the facility holding the person shall be responsible for obtaining the biological samples as part of the intake process. If the facility did not collect the biological sample during the intake process, then the facility shall collect the biological sample as soon as is practicable prior to the person's release from confinement. For those persons incarcerated before June 12, 2008, who have not yet had a biological sample collected, priority shall be given to those persons who will be released the soonest.

(ii) If the biological sample is not collected prior to the person's release from confinement, the responsible department of corrections facility or department of children, youth, and families facility shall notify the sentencing court within three business days of the person's release that it has released the person without collecting the person's biological sample. Within 10 days of receiving notice of the person's release, the sentencing court shall schedule a compliance hearing. The responsible department of corrections facility or department of children, youth, and families facility shall serve or cause to be served notice to the person of the compliance hearing and shall file proof of service with the sentencing court. A representative of the responsible department of corrections facility or department of children, youth, and families facility shall attend the compliance

hearing and obtain the person's biological sample at the hearing. The court may, in its discretion, require the responsible department of corrections facility or department of children, youth, and families facility to pay attorneys' fees and court costs associated with scheduling and attending the compliance hearing.

(d) For persons convicted of any offense listed in subsection (1)(a) of this section or adjudicated guilty of an equivalent juvenile offense, who will not serve a term of confinement, the court shall: Order the person to ((~~report to the local police department or sheriff's office as provided under subsection (5)(b)(i) of this section within a reasonable period of time established by the court in order to provide a biological sample~~)) be administratively booked at a city or county jail facility for the sole purpose of providing a biological sample; or if the local police department or sheriff's office has a protocol for collecting the biological sample in the courtroom, order the person to immediately provide the biological sample to the local police department or sheriff's office before leaving the presence of the court. The court must further inform the person that refusal to provide a biological sample is a gross misdemeanor under this section.

(e) For persons convicted of any offense listed in subsection (1)(a) of this section or adjudicated guilty of an equivalent juvenile offense, the court shall create and implement a biological sample collection protocol. The court shall order the biological samples at the time of sentencing. The court shall inform the person that refusal to provide a biological sample is a gross misdemeanor under this section. If the biological sample is not collected at the time of sentencing, then the biological sample shall be collected pursuant to (a) through (d) of this subsection (5), and the court shall schedule a compliance hearing within 10 days of the sentencing to ensure that the biological sample has been collected.

(6) Any biological sample taken pursuant to RCW 43.43.752 through 43.43.758 may be retained by the forensic laboratory services bureau, and shall be used solely for the purpose of providing DNA or other tests for identification analysis and prosecution of a criminal offense or for the identification of human remains or missing persons. Nothing in this section prohibits the submission of results derived from the biological samples to the federal bureau of investigation combined DNA index system.

(7) The forensic laboratory services bureau of the Washington state patrol is responsible for testing performed on all biological samples that are collected under this section, to the extent allowed by funding available for this purpose. Known duplicate samples may be excluded from testing unless testing is deemed necessary or advisable by the director.

(8) This section applies to:

(a) All adults and juveniles to whom this section applied prior to June 12, 2008;

(b) All adults and juveniles to whom this section did not apply prior to June 12, 2008, who:

(i) Are convicted on or after June 12, 2008, of an offense listed in subsection (1)(a) of this section on the date of conviction; or

(ii) Were convicted prior to June 12, 2008, of an offense listed in subsection (1)(a) of this section and are still incarcerated on or after June 12, 2008;

(c) All adults and juveniles who are required to register under RCW 9A.44.130 on or after June 12, 2008, whether convicted before, on, or after June 12, 2008; and

(d) All samples submitted under subsections (2) and (3) of this section.

(9) This section creates no rights in a third person. No cause of action may be brought based upon the noncollection or nonanalysis or the delayed collection or analysis of a biological sample authorized to be taken under RCW 43.43.752 through 43.43.758.

(10) The detention, arrest, or conviction of a person based upon a database match or database information is not invalidated if it is determined that the sample was obtained or placed in the database by mistake, or if the conviction or juvenile adjudication that resulted in the collection of the biological sample was subsequently vacated or otherwise altered in any future proceeding including but not limited to posttrial or postfact-finding motions, appeals, or collateral attacks. No cause of action may be brought against the state based upon the analysis of a biological sample authorized to be taken pursuant to a municipal ordinance if the conviction or adjudication that resulted in the collection of the biological sample was subsequently vacated or otherwise altered in any future proceeding including, but not limited to, posttrial or postfact-finding motions, appeals, or collateral attacks.

(11) A person commits the crime of refusal to provide DNA if the person willfully refuses to comply with a legal request for a DNA sample as required under this section. The refusal to provide DNA is a gross misdemeanor.

Sec. 8. RCW 9A.04.080 and 2022 c 282 s 4 are each amended to read as follows:

(1) Prosecutions for criminal offenses shall not be commenced after the periods prescribed in this section.

(a) The following offenses may be prosecuted at any time after their commission:

(i) Murder;

(ii) Homicide by abuse;

(iii) Arson if a death results;

(iv) Vehicular homicide;

(v) Vehicular assault if a death results;

(vi) Hit-and-run injury-accident if a death results (RCW 46.52.020(4));

(vii) Rape in the first degree (RCW 9A.44.040) if the victim is under the age of sixteen;

(viii) Rape in the second degree (RCW 9A.44.050) if the victim is under the age of sixteen;

(ix) Rape of a child in the first degree (RCW 9A.44.073);

(x) Rape of a child in the second degree (RCW 9A.44.076);

(xi) Rape of a child in the third degree (RCW 9A.44.079);

(xii) Sexual misconduct with a minor in the first degree (RCW 9A.44.093);

(xiii) Custodial sexual misconduct in the first degree (RCW 9A.44.160);

(xiv) Child molestation in the first degree (RCW 9A.44.083);

(xv) Child molestation in the second degree (RCW 9A.44.086);

(xvi) Child molestation in the third degree (RCW 9A.44.089); and

(xvii) Sexual exploitation of a minor (RCW 9.68A.040).

(b) Except as provided in (a) of this subsection, the following offenses may not be prosecuted more than twenty years after its commission:

(i) Rape in the first degree (RCW 9A.44.040);

(ii) Rape in the second degree (RCW 9A.44.050); or

(iii) Indecent liberties (RCW 9A.44.100).

(c) The following offenses may not be prosecuted more than ten years after its commission:

(i) Any felony committed by a public officer if the commission is in connection with the duties of his or her office or constitutes a breach of his or her public duty or a violation of the oath of office;

(ii) Arson if no death results;

(iii) Rape in the third degree (RCW 9A.44.060);

(iv) Attempted murder; or

(v) Trafficking under RCW 9A.40.100.

(d) A violation of any offense listed in this subsection (1)(d) may be prosecuted up to ten years after its commission or, if committed against a victim under the age of eighteen, up to the victim's thirtieth birthday, whichever is later:

(i) RCW 9.68A.100 (commercial sexual abuse of a minor);

(ii) RCW 9.68A.101 (promoting commercial sexual abuse of a minor);

(iii) RCW 9.68A.102 (promoting travel for commercial sexual abuse of a minor); or

(iv) RCW 9A.64.020 (incest).

(e) The following offenses may not be prosecuted more than six years after its commission or discovery, whichever occurs later:

(i) Violations of RCW 9A.82.060 or 9A.82.080;

(ii) Any felony violation of chapter 9A.83 RCW;

(iii) Any felony violation of chapter 9.35 RCW;

(iv) Theft in the first or second degree under chapter 9A.56 RCW when accomplished by color or aid of deception;

(v) Theft from a vulnerable adult under RCW 9A.56.400;

(vi) Trafficking in stolen property in the first or second degree under chapter 9A.82 RCW in which the stolen property is a motor vehicle or major component part of a motor vehicle as defined in RCW 46.80.010; or

(vii) Violations of RCW 82.32.290 (2)(a)(iii) or (4).

(f) The following offenses may not be prosecuted more than five years after its commission: Any class C felony under chapter 74.09, 82.36, or 82.38 RCW.

(g) Bigamy may not be prosecuted more than three years after the time specified in RCW 9A.64.010.

(h) A violation of RCW 9A.56.030 may not be prosecuted more than three years after the discovery of the offense when the victim is a tax exempt corporation under 26 U.S.C. Sec. 501(c)(3).

(i) No other felony may be prosecuted more than three years after its commission; except that in a prosecution under RCW 9A.44.115, if the person who was viewed, photographed, or filmed did not realize at the time that he or she was being viewed, photographed, or filmed, the prosecution must be commenced within two years of the time the person who was viewed or in the photograph or film first learns that he or she was viewed, photographed, or filmed.

(j) No gross misdemeanor may be prosecuted more than two years after its commission.

(k) No misdemeanor may be prosecuted more than one year after its commission.

(2) The periods of limitation prescribed in subsection (1) of this section do not run during any time when the person charged is not usually and publicly resident within this state.

(3) In any prosecution for a sex offense as defined in RCW 9.94A.030, the periods of limitation prescribed in subsection (1) of this section run from the date of commission or ((~~two~~)) four years from the date on which the identity of the suspect is conclusively established by deoxyribonucleic acid testing or by photograph as defined in RCW 9.68A.011, whichever is later.

(4) If, before the end of a period of limitation prescribed in subsection (1) of this section, an indictment has been found or a complaint or an information has been filed, and the indictment, complaint, or information is set aside, then the period of limitation is extended by a period equal to the length of time from the finding or filing to the setting aside.

NEW SECTION. **Sec. 9.** A new section is added to chapter 70.02 RCW to read as follows:

A disclosure authorization to a health care provider or health care facility authorizing disclosure of information to law enforcement regarding a forensic examination performed for the purposes of gathering evidence for possible prosecution of a criminal offense must be valid until the end of all related criminal proceedings or a later event selected by the provider, facility, patient, or patient's representative, unless the patient or patient's representative requests a different expiration date or event for the disclosure authorization.

Sec. 10. RCW 9A.44.020 and 2013 c 302 s 7 are each amended to read as follows:

(1) In order to convict a person of any crime defined in this chapter it shall not be necessary that the testimony of the alleged victim be corroborated.

(2) Evidence of the victim's past sexual behavior including but not limited to the victim's marital history((~~,~~)); divorce history((~~, or~~)); general reputation for promiscuity, nonchastity, or sexual mores contrary to community standards; or, unless it is related to the alleged offense, social media account, including any text, image, video, or picture, which depict sexual content, sexual history, nudity or partial nudity, intimate sexual activity, communications about sexual activity, communications about sex, sexual fantasies, and other information that appeals to a prurient interest is inadmissible on the issue of credibility and is inadmissible to prove the victim's consent except as provided in subsection (3) of this section, but when the perpetrator and the victim have engaged in sexual intercourse with each other in the past, and when the past behavior is material to the issue of consent, evidence concerning the past behavior between the perpetrator and the victim may be admissible on the issue of consent to the offense.

(3) In any prosecution for the crime of rape, trafficking pursuant to RCW 9A.40.100, or any of the offenses in chapter 9.68A RCW, or for an attempt to commit, or an assault with an intent to commit any such crime evidence of the victim's past sexual behavior including but not limited to the victim's marital behavior((~~,~~)); divorce history((~~, or~~)); general reputation for promiscuity, nonchastity, or sexual mores contrary to community standards; or, unless it is related to the alleged offense, social media account, including any text, image, video, or picture, which depict sexual content, sexual history, nudity or partial

nudity, intimate sexual activity, communications about sexual activity, communications about sex, sexual fantasies, and other information that appeals to a prurient interest is not admissible if offered to attack the credibility of the victim and is admissible on the issue of consent, except where prohibited in the underlying criminal offense, only pursuant to the following procedure:

(a) A written pretrial motion shall be made by the defendant to the court and prosecutor stating that the defense has an offer of proof of the relevancy of evidence of the past sexual behavior of the victim proposed to be presented and its relevancy on the issue of the consent of the victim.

(b) The written motion shall be accompanied by an affidavit or affidavits in which the offer of proof shall be stated.

(c) If the court finds that the offer of proof is sufficient, the court shall order a hearing out of the presence of the jury, if any, and the hearing shall be closed except to the necessary witnesses, the defendant, counsel, and those who have a direct interest in the case or in the work of the court.

(d) At the conclusion of the hearing, if the court finds that the evidence proposed to be offered by the defendant regarding the past sexual behavior of the victim is relevant to the issue of the victim's consent; is not inadmissible because its probative value is substantially outweighed by the probability that its admission will create a substantial danger of undue prejudice; and that its exclusion would result in denial of substantial justice to the defendant; the court shall make an order stating what evidence may be introduced by the defendant, which order may include the nature of the questions to be permitted. The defendant may then offer evidence pursuant to the order of the court.

(4) Nothing in this section shall be construed to prohibit cross-examination of the victim on the issue of past sexual behavior when the prosecution presents evidence in its case in chief tending to prove the nature of the victim's past sexual behavior, but the court may require a hearing pursuant to subsection (3) of this section concerning such evidence.

Sec. 11. RCW 7.69.030 and 2022 c 229 s 1 are each amended to read as follows:

(1) There shall be a reasonable effort made to ensure that victims, survivors of victims, and witnesses of crimes have the following rights, which apply to any adult or juvenile criminal ((~~court and/or juvenile court~~)) proceeding and any civil commitment proceeding under chapter 71.09 RCW:

((~~(1)~~)) (a) With respect to victims of violent or sex crimes, to receive, at the time of reporting the crime to law enforcement officials, a written statement of the rights of crime victims as provided in this chapter. The written statement shall include the name, address, and telephone number of a county or local crime victim/witness program, if such a crime victim/witness program exists in the county;

((~~(2)~~)) (b) To be informed by local law enforcement agencies or the prosecuting attorney of the final disposition of the case in which the victim, survivor, or witness is involved;

((~~(3)~~)) (c) To be notified by the party who issued the subpoena that a court proceeding to which they have been subpoenaed will not occur as scheduled, in order to save the person an unnecessary trip to court;

((~~(4)~~)) (d) To receive protection from harm and threats of harm arising out of cooperation with law enforcement and prosecution efforts, and to be provided with information as to the level of protection available;

((~~(5)~~)) (e) To be informed of the procedure to be followed to apply for and receive any witness fees to which they are entitled;

((~~(6)~~)) (f) To be provided, whenever practical, a secure waiting area during court proceedings that does not require them to be in close proximity to defendants and families or friends of defendants;

((~~(7)~~)) (g) To have any stolen or other personal property expeditiously returned by law enforcement agencies or the superior court when no longer needed as evidence. When feasible, all such property, except weapons, currency, contraband, property subject to evidentiary analysis, and property of which ownership is disputed, shall be photographed and returned to the owner within ten days of being taken;

((~~(8)~~)) (h) To be provided with appropriate employer intercession services to ensure that employers of victims, survivors of victims, and witnesses of crime will cooperate with the criminal justice process or the civil commitment process under chapter 71.09 RCW in order to minimize an employee's loss of pay and other benefits resulting from court appearance;

((~~(9)~~)) (i) To access to immediate medical assistance and not to be detained for an unreasonable length of time by a law enforcement agency before having such assistance administered. However, an employee of the law enforcement agency may, if necessary, accompany the person to a medical facility to question the person about the criminal incident if the questioning does not hinder the administration of medical assistance. Victims of domestic violence, sexual assault, or stalking, as defined in RCW 49.76.020, shall be notified of their right to reasonable leave from employment under chapter 49.76 RCW;

((~~(10)~~)) (j) With respect to victims of violent and sex crimes, to have a crime victim advocate from a crime victim/witness program, or any other support person of the victim's choosing, present at any prosecutorial or defense interviews with the victim, and at any judicial proceedings related to criminal acts committed against the victim. This subsection applies if practical and if the presence of the crime victim advocate or support person does not cause any unnecessary delay in the investigation or prosecution of the case. The role of the crime victim advocate is to provide emotional support to the crime victim;

((~~(11)~~)) (k) With respect to victims and survivors of victims, to be physically present in court during trial, or if subpoenaed to testify, to be scheduled as early as practical in the proceedings in order to be physically present during trial after testifying and not to be excluded solely because they have testified;

((~~(12)~~)) (l) With respect to victims and survivors of victims in any felony case ((~~or~~)), any case involving domestic violence, or any final determination under chapter 71.09 RCW, to be informed by the prosecuting attorney of the date, time, and place of the trial and of the sentencing hearing or disposition hearing upon request by a victim or survivor;

((~~(13)~~)) (m) To submit a victim impact statement or report to the court, with the assistance of the prosecuting attorney if requested, which shall be included in all presentence reports and permanently included in the files and records

accompanying the offender committed to the custody of a state agency or institution;

(((~~(14)~~))) (n) With respect to victims and survivors of victims in any felony case or any case involving domestic violence, to present a statement, personally or by representation, at the sentencing hearing; and

(((~~(15)~~))) (o) With respect to victims and survivors of victims, to entry of an order of restitution by the court in all felony cases, even when the offender is sentenced to confinement, unless extraordinary circumstances exist which make restitution inappropriate in the court's judgment.

(2) If a victim, survivor of a victim, or witness of a crime is denied a right under this section, the person may seek an order directing compliance by the relevant party or parties by filing a petition in the superior court in the county in which the crime occurred and providing notice of the petition to the relevant party or parties. Compliance with the right is the sole available remedy. The court shall expedite consideration of a petition filed under this subsection.

NEW SECTION. **Sec. 12.** Section 4 of this act takes effect July 1, 2024.

NEW SECTION. **Sec. 13.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void.

Passed by the House April 13, 2023.
Passed by the Senate April 11, 2023.
Approved by the Governor May 1, 2023.
Filed in Office of Secretary of State May 2, 2023.

CHAPTER 198

[Second Substitute House Bill 1039]

PHYSICAL THERAPISTS—INTRAMUSCULAR NEEDLING

AN ACT Relating to physical therapists performing intramuscular needling; amending RCW 18.74.010; and adding a new section to chapter 18.74 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 18.74.010 and 2018 c 222 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) "Authorized health care practitioner" means and includes licensed physicians, osteopathic physicians, chiropractors, naturopaths, podiatric physicians and surgeons, dentists, and advanced registered nurse practitioners: PROVIDED, HOWEVER, That nothing herein shall be construed as altering the scope of practice of such practitioners as defined in their respective licensure laws.

(2) "Board" means the board of physical therapy created by RCW 18.74.020.

(3) "Close supervision" means that the supervisor has personally diagnosed the condition to be treated and has personally authorized the procedures to be performed. The supervisor is continuously on-site and physically present in the operatory while the procedures are performed and capable of responding immediately in the event of an emergency.

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

(5) "Direct supervision" means the supervisor must (a) be continuously on-site and present in the department or facility where the person being supervised is performing services; (b) be immediately available to assist the person being supervised in the services being performed; and (c) maintain continued involvement in appropriate aspects of each treatment session in which a component of treatment is delegated to assistive personnel or is required to be directly supervised under RCW 18.74.190.

(6) "Indirect supervision" means the supervisor is not on the premises, but has given either written or oral instructions for treatment of the patient and the patient has been examined by the physical therapist at such time as acceptable health care practice requires and consistent with the particular delegated health care task.

(7) "Physical therapist" means a person who meets all the requirements of this chapter and is licensed in this state to practice physical therapy.

(8)(a) "Physical therapist assistant" means a person who meets all the requirements of this chapter and is licensed as a physical therapist assistant and who performs physical therapy procedures and related tasks that have been selected and delegated only by the supervising physical therapist. However, a physical therapist may not delegate sharp debridement to a physical therapist assistant.

(b) "Physical therapy aide" means an unlicensed person who receives ongoing on-the-job training and assists a physical therapist or physical therapist assistant in providing physical therapy patient care and who does not meet the definition of a physical therapist, physical therapist assistant, or other assistive personnel. A physical therapy aide may directly assist in the implementation of therapeutic interventions, but may not alter or modify the plan of therapeutic interventions and may not perform any procedure or task which only a physical therapist may perform under this chapter.

(c) "Other assistive personnel" means other trained or educated health care personnel, not defined in (a) or (b) of this subsection, who perform specific designated tasks that are related to physical therapy and within their license, scope of practice, or formal education, under the supervision of a physical therapist, including but not limited to licensed massage therapists, athletic trainers, and exercise physiologists. At the direction of the supervising physical therapist, and if properly credentialed and not prohibited by any other law, other assistive personnel may be identified by the title specific to their license, training, or education.

(9) "Physical therapy" means the care and services provided by or under the direction and supervision of a physical therapist licensed by the state. Except as provided in RCW 18.74.190, the use of Roentgen rays and radium for diagnostic and therapeutic purposes, the use of electricity for surgical purposes, including cauterization, and the use of spinal manipulation, or manipulative mobilization of the spine and its immediate articulations, are not included under the term "physical therapy" as used in this chapter.

(10) "Practice of physical therapy" is based on movement science and means:

(a) Examining, evaluating, and testing individuals with mechanical, physiological, and developmental impairments, functional limitations in

movement, and disability or other health and movement-related conditions in order to determine a diagnosis, prognosis, plan of therapeutic intervention, and to assess and document the ongoing effects of intervention;

(b) Alleviating impairments and functional limitations in movement by designing, implementing, and modifying therapeutic interventions that include therapeutic exercise; functional training related to balance, posture, and movement to facilitate self-care and reintegration into home, community, or work; manual therapy including soft tissue and joint mobilization and manipulation; therapeutic massage; assistive, adaptive, protective, and devices related to postural control and mobility except as restricted by (c) of this subsection; airway clearance techniques; physical agents or modalities; mechanical and electrotherapeutic modalities; and patient-related instruction;

(c) Training for, and the evaluation of, the function of a patient wearing an orthosis or prosthesis as defined in RCW 18.200.010. Physical therapists may provide those direct-formed and prefabricated upper limb, knee, and ankle-foot orthoses, but not fracture orthoses except those for hand, wrist, ankle, and foot fractures, and assistive technology devices specified in RCW 18.200.010 as exemptions from the defined scope of licensed orthotic and prosthetic services. It is the intent of the legislature that the unregulated devices specified in RCW 18.200.010 are in the public domain to the extent that they may be provided in common with individuals or other health providers, whether unregulated or regulated under this title, without regard to any scope of practice;

(d) Performing wound care services that are limited to sharp debridement, debridement with other agents, dry dressings, wet dressings, topical agents including enzymes, hydrotherapy, electrical stimulation, ultrasound, and other similar treatments. Physical therapists may not delegate sharp debridement. A physical therapist may perform wound care services only by referral from or after consultation with an authorized health care practitioner;

(e) Performing intramuscular needling;

(f) Reducing the risk of injury, impairment, functional limitation, and disability related to movement, including the promotion and maintenance of fitness, health, and quality of life in all age populations; and

((~~(f)~~)) (g) Engaging in administration, consultation, education, and research.

(11) "Secretary" means the secretary of health.

(12) "Sharp debridement" means the removal of devitalized tissue from a wound with scissors, scalpel, and tweezers without anesthesia. "Sharp debridement" does not mean surgical debridement. A physical therapist may perform sharp debridement, to include the use of a scalpel, only upon showing evidence of adequate education and training as established by rule. Until the rules are established, but no later than July 1, 2006, physical therapists licensed under this chapter who perform sharp debridement as of July 24, 2005, shall submit to the secretary an affidavit that includes evidence of adequate education and training in sharp debridement, including the use of a scalpel.

(13) "Spinal manipulation" includes spinal manipulation, spinal manipulative therapy, high velocity thrust maneuvers, and grade five mobilization of the spine and its immediate articulations.

(14) "Intramuscular needling," also known as "dry needling," means a skilled intervention that uses a single use, sterile filiform needle to penetrate the skin and stimulate underlying myofascial trigger points and connective and

muscular tissues for the evaluation and management of neuromusculoskeletal pain and movement impairments. Intramuscular needling requires an examination and diagnosis. Intramuscular needling does not include needle retention without stimulation or the stimulation of auricular and distal points.

(15) Words importing the masculine gender may be applied to females.

NEW SECTION. **Sec. 2.** A new section is added to chapter 18.74 RCW to read as follows:

(1) Subject to the limitations of this section, a physical therapist may perform intramuscular needling only after being issued an intramuscular needling endorsement by the secretary. The secretary, upon approval by the board, shall issue an endorsement to a physical therapist who has at least one year of postgraduate practice experience that averages at least 36 hours a week and consists of direct patient care and who provides evidence in a manner acceptable to the board of a total of 325 hours of instruction and clinical experience that meet or exceed the following criteria:

(a) A total of 100 hours of didactic instruction in the following areas:

(i) Anatomy and physiology of the musculoskeletal and neuromuscular systems;

(ii) Anatomical basis of pain mechanisms, chronic pain, and referred pain;

(iii) Trigger point evaluation and management;

(iv) Universal precautions in avoiding contact with a patient's bodily fluids; and

(v) Preparedness and response to unexpected events including but not limited to injury to blood vessels, nerves, and organs, and psychological effects or complications.

(b) A total of 75 hours of in-person intramuscular needling instruction in the following areas:

(i) Intramuscular needling technique;

(ii) Intramuscular needling indications and contraindications;

(iii) Documentation and informed consent for intramuscular needling;

(iv) Management of adverse effects;

(v) Practical psychomotor competency; and

(vi) Occupational safety and health administration's bloodborne pathogens protocol.

(c) A successful clinical review of a minimum of 150 hours of at least 150 individual intramuscular needling treatment sessions by a qualified provider. A physical therapist seeking endorsement must submit an affidavit to the department demonstrating successful completion of this clinical review.

(2) A qualified provider must be one of the following:

(a) A physician licensed under chapter 18.71 RCW; an osteopathic physician licensed under chapter 18.57 RCW; a licensed naturopath under chapter 18.36A RCW; a licensed acupuncture and Eastern medicine practitioner under chapter 18.06 RCW; or a licensed advanced registered nurse practitioner under chapter 18.79 RCW;

(b) A physical therapist credentialed to perform intramuscular needling in any branch of the United States armed forces;

(c) A licensed physical therapist who currently holds an intramuscular needling endorsement; or

(d) A licensed physical therapist who meets the requirements of the intramuscular needling endorsement.

(3) After receiving 100 hours of didactic instruction and 75 hours of in-person intramuscular needling instruction, a physical therapist seeking endorsement has up to 18 months to complete a minimum of 150 treatment sessions for review.

(4) A physical therapist may not delegate intramuscular needling and must remain in constant attendance of the patient for the entirety of the procedure.

(5) A physical therapist can apply for endorsement before they have one year of clinical practice experience if they can meet the requirement of 100 hours of didactic instruction and 75 hours of in-person intramuscular needling instruction in subsection (1)(a)(i) and (ii) of this section through their prelicensure coursework and has completed all other requirements set forth in this chapter.

(6) If a physical therapist is intending to perform intramuscular needling on a patient who the physical therapist knows is being treated by an acupuncturist or acupuncture and Eastern medicine practitioner for the same diagnosis, the physical therapist shall make reasonable efforts to coordinate patient care with the acupuncturist or acupuncture and Eastern medicine practitioner to prevent conflict or duplication of services.

(7) All patients receiving intramuscular needling from a physical therapist must sign an informed consent form that includes:

(a) The definition of intramuscular needling;

(b) A description of the risks of intramuscular needling;

(c) A description of the benefits of intramuscular needling;

(d) A description of the potential side effects of intramuscular needling; and

(e) A statement clearly differentiating the procedure from the practice of acupuncture.

(8) Intramuscular needling may not be administered as a stand-alone treatment within a physical therapy care plan.

Passed by the House April 13, 2023.

Passed by the Senate April 6, 2023.

Approved by the Governor May 1, 2023.

Filed in Office of Secretary of State May 2, 2023.

CHAPTER 199

[House Bill 1055]

PUBLIC SAFETY TELECOMMUNICATORS—PUBLIC SAFETY EMPLOYEES' RETIREMENT PLAN MEMBERSHIP

AN ACT Relating to public safety employees' retirement plan membership for public safety telecommunicators; amending RCW 41.37.005 and 41.37.010; adding a new section to chapter 41.37 RCW; creating a new section; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature recognizes that the entities that employ public safety telecommunicators can be set up at many levels, including state, federal, and nonprofit.

(2) The legislature intends this act to apply only to:

(a) Newly-hired public safety telecommunicators who would otherwise be eligible for the public employees' retirement system plan 2 or plan 3 if not for this act; and

(b) Existing public safety telecommunicators who are currently participating in the public employees' retirement system plan 2 or plan 3.

(3) This act is not intended to confer retirement system membership or benefits to any employees who are not already eligible for state retirement benefits, such as contract employees, nonprofit employees, and employees of first-class cities.

Sec. 2. RCW 41.37.005 and 2006 c 309 s 1 are each amended to read as follows:

It is the intent of the legislature to establish a separate public safety employees' retirement system for certain public employees whose jobs contain a high degree of physical or psychological risk to their own personal safety and who provide public protection of lives and property, but who are not eligible for membership in the law enforcement officers' and firefighters' retirement system.

Sec. 3. RCW 41.37.010 and 2021 c 12 s 6 are each amended to read as follows:

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

(1) "Accumulated contributions" means the sum of all contributions standing to the credit of a member in the member's individual account, including any amount paid under RCW 41.50.165(2), together with the regular interest thereon.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality and other tables as may be adopted by the director.

(3) "Adjustment ratio" means the value of index A divided by index B.

(4) "Annuity" means payments for life derived from accumulated contributions of a member. All annuities shall be paid in monthly installments.

(5)(a) "Average final compensation" means the member's average compensation earnable of the highest consecutive sixty months of service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.37.290.

(b) In calculating average final compensation under (a) of this subsection, the department of retirement systems shall include:

(i) Any compensation forgone by a member employed by a state agency or institution during the 2009-2011 fiscal biennium as a result of reduced work hours, mandatory or voluntary leave without pay, temporary reduction in pay implemented prior to December 11, 2010, or temporary layoffs if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer;

(ii) Any compensation forgone by a member employed by the state or a local government employer during the 2011-2013 fiscal biennium as a result of reduced work hours, mandatory leave without pay, temporary layoffs, or reductions to current pay if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer.

Reductions to current pay shall not include elimination of previously agreed upon future salary increases; and

(iii) Any compensation forgone by a member during the 2019-2021 and 2021-2023 fiscal biennia as a result of reduced work hours, mandatory leave without pay, temporary layoffs, furloughs, reductions to current pay, or other similar measures resulting from the COVID-19 budgetary crisis, if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer. Reductions to current pay shall not include elimination of previously agreed upon future salary increases.

(6) "Beneficiary" means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(7)(a) "Compensation earnable" for members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States internal revenue code, but shall exclude nonmoney maintenance compensation and lump sum or other payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

(b) "Compensation earnable" for members also includes the following actual or imputed payments, which are not paid for personal services:

(i) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement, which are awarded or granted as the equivalent of the salary or wage which the individual would have earned during a payroll period shall be considered compensation earnable to the extent provided in this subsection, and the individual shall receive the equivalent service credit;

(ii) In any year in which a member serves in the legislature, the member shall have the option of having such member's compensation earnable be the greater of:

(A) The compensation earnable the member would have received had such member not served in the legislature; or

(B) Such member's actual compensation earnable received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under (b)(ii)(A) of this subsection is greater than compensation earnable under (b)(ii)(B) of this subsection shall be paid by the member for both member and employer contributions;

(iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(iv) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.37.060;

(v) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

(vi) Compensation that a member receives for being in standby status. For the purposes of this section, a member is in standby status when not being paid for time actually worked and the employer requires the member to be prepared

to report immediately for work, if the need arises, although the need may not arise.

(8) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(9) "Director" means the director of the department.

(10) "Eligible position" means any permanent, full-time position included in subsection (19) of this section.

(11) "Employee" or "employed" means a person who is providing services for compensation to an employer, unless the person is free from the employer's direction and control over the performance of work. The department shall adopt rules and interpret this subsection consistent with common law.

(12)(a) "Employer" means ((~~the~~)):

(i) The Washington state department of corrections((~~, the~~));

(ii) The Washington state parks and recreation commission((~~, the~~));

(iii) The Washington state gambling commission((~~, the~~));

(iv) The Washington state patrol((~~, the~~));

(v) The Washington state department of natural resources((~~, the~~));

(vi) The Washington state liquor and cannabis board((~~, the~~));

(vii) The Washington state department of veterans affairs((~~, the~~));

(viii) The Washington state department of children, youth, and families((~~, and the~~));

(ix) The Washington state department of social and health services((~~; any~~));

(x) Any county corrections department((~~; any~~));

(xi) Any city corrections department not covered under chapter 41.28 RCW((~~; and any~~));

(xii) Any public corrections entity created under RCW 39.34.030 by counties, cities not covered under chapter 41.28 RCW, or both; and

(xiii) Any employer participating in the public employees' retirement system in chapter 41.40 RCW, some or all of whose employees' primary responsibility is to receive, process, transmit, or dispatch 911 emergency and nonemergency calls for law enforcement, fire, emergency medical, or other public safety services that is not already covered by the provisions of this subsection.

(b) Except as otherwise specifically provided in this chapter, "employer" does not include a government contractor. For purposes of this subsection, a "government contractor" is any entity, including a partnership, limited liability company, for-profit or nonprofit corporation, or person, that provides services pursuant to a contract with an employer. The determination whether an employer-employee relationship has been established is not based on the relationship between a government contractor and an employer, but is based solely on the relationship between a government contractor's employee and an employer under this chapter.

(13) "Final compensation" means the annual rate of compensation earnable by a member at the time of termination of employment.

(14) "Index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

(15) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(16) "Index B" means the index for the year prior to index A.

(17) "Ineligible position" means any position which does not conform with the requirements set forth in subsection (10) of this section.

(18) "Leave of absence" means the period of time a member is authorized by the employer to be absent from service without being separated from membership.

(19) "Member" means any employee employed by an employer on a full-time basis:

(a) Who is in a position that requires completion of a certified criminal justice training course and is authorized by their employer to arrest, conduct criminal investigations, enforce the criminal laws of the state of Washington, and carry a firearm as part of the job;

(b) Whose primary responsibility is to ensure the custody and security of incarcerated or probationary individuals as a corrections officer, probation officer, or jailer;

(c) Who is a limited authority Washington peace officer, as defined in RCW 10.93.020, for an employer;

(d) Whose primary responsibility is to provide nursing care to, or to ensure the custody and safety of, offender, adult probationary, or patient populations; and who is in a position that requires completion of defensive tactics training or de-escalation training; and who is employed by one of the following state institutions or centers operated by the department of social and health services or the department of children, youth, and families:

(i) Juvenile rehabilitation administration institutions, not including community facilities;

(ii) Mental health hospitals;

(iii) Child study and treatment centers; or

(iv) Institutions or residential sites that serve developmentally disabled patients or offenders, or perform competency restoration services, except for state-operated living alternatives facilities;

(e) Whose primary responsibility is to provide nursing care to offender and patient populations in institutions and centers operated by the following employers: A city or county corrections department as set forth in subsection (12) of this section, a public corrections entity as set forth in subsection (12) of this section, the Washington state department of corrections, or the Washington state department of veterans affairs; ((~~or~~))

(f) Whose primary responsibility is to receive, process, transmit, or dispatch 911 emergency and nonemergency calls for law enforcement, fire, emergency medical, or other public safety services, or to supervise those employees; or

(g) Whose primary responsibility is to supervise members eligible under this subsection.

(20) "Membership service" means all service rendered as a member.

(21) "Pension" means payments for life derived from contributions made by the employer. All pensions shall be paid in monthly installments.

(22) "Plan" means the Washington public safety employees' retirement system plan 2.

(23) "Regular interest" means such rate as the director may determine.

(24) "Retiree" means any person who has begun accruing a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member.

(25) "Retirement" means withdrawal from active service with a retirement allowance as provided by this chapter.

(26) "Retirement allowance" means monthly payments to a retiree or beneficiary as provided in this chapter.

(27) "Retirement system" means the Washington public safety employees' retirement system provided for in this chapter.

(28) "Separation from service" occurs when a person has terminated all employment with an employer.

(29) "Service" means periods of employment by a member on or after July 1, 2006, for one or more employers for which compensation earnable is paid. Compensation earnable earned for ninety or more hours in any calendar month shall constitute one service credit month. Compensation earnable earned for at least seventy hours but less than ninety hours in any calendar month shall constitute one-half service credit month of service. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service. Time spent in standby status, whether compensated or not, is not service.

Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits.

(a) Service in any state elective position shall be deemed to be full-time service.

(b) A member shall receive a total of not more than twelve service credit months of service for such calendar year. If an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for ninety or more hours is rendered.

(c) Reduction efforts such as furloughs, reduced work hours, mandatory leave without pay, temporary layoffs, or other similar situations as contemplated by subsection (5)(b)(iii) of this section do not result in a reduction in service credit that otherwise would have been earned for that month of work, and the member shall receive the full service credit for the hours that were scheduled to be worked before the reduction.

(30) "Service credit month" means a month or an accumulation of months of service credit which is equal to one.

(31) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(32) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(33) "State elective position" means any position held by any person elected or appointed to statewide office or elected or appointed as a member of the legislature.

(34) "State treasurer" means the treasurer of the state of Washington.

NEW SECTION. **Sec. 4.** A new section is added to chapter 41.37 RCW to read as follows:

(1) An employee of an employer as defined in RCW 41.37.010 who was a member of the public employees' retirement system plan 2 or plan 3 before June

1, 2024, and on June 1, 2024, meets the eligibility requirements as set forth in RCW 41.37.010(19)(f) has the following options during the election period defined in subsection (2) of this section:

(a) To remain in the public employees' retirement system in their current plan; or

(b) To become a member of the public safety employees' retirement system plan 2 and be a dual member as provided in chapter 41.54 RCW. Any service credit the employee accrued in the public employees' retirement system service credit may not be transferred to the public safety employees' retirement system.

(2) The "election period" is the period between January 1, 2024, and March 1, 2024.

(3) During the election period, employees who are employed by an employer as defined in RCW 41.37.010 remain members of the public employees' retirement system plan 2 or plan 3 until they affirmatively elect to join the public safety employees' retirement system. Members who elect to join the public safety employees' retirement system as described in this section will have their membership begin prospectively from the date of their election.

(4) If, after September 1, 2024, the member has not made an election to join the public safety employees' retirement system, he or she will remain in his or her current plan in the public employees' retirement system.

(5) An employee who was a member of the public employees' retirement system plan 1 on or before June 1, 2019, and on or after June 1, 2024, is employed by an employer as defined in RCW 41.37.010 as an employee who meets the eligibility requirements included in RCW 41.37.010(19)(f), shall remain a member of the public employees' retirement system plan 1.

(6) All new employees hired on or after June 1, 2024, who become employed by an employer as defined in RCW 41.37.010 as an employee who meets the eligibility requirements included in RCW 41.37.010(19)(f) will become members of the public safety employees' retirement system.

NEW SECTION. **Sec. 5.** This act takes effect June 1, 2024.

Passed by the House March 6, 2023.
Passed by the Senate April 12, 2023.
Approved by the Governor May 1, 2023.
Filed in Office of Secretary of State May 2, 2023.

CHAPTER 200

[Substitute House Bill 1117]

POWER SUPPLY ADEQUACY—ENERGY RESOURCE ADEQUACY STAKEHOLDER MEETINGS

AN ACT Relating to addressing the extent to which Washington residents are at risk of rolling blackouts and power supply inadequacy events; amending RCW 19.280.065; creating a new section; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that the electric grid is undergoing profound changes. Due to decreasing costs of renewable generation and policies like the clean energy transformation act, the grid is gradually evolving from one built to deliver to the customer electricity from centralized

electric generation plants to one with variable energy resources like wind turbines and solar panels dispersed geographically across a broad landscape. As described in the 2021 Washington state energy strategy, the grid that our region is transitioning to will require greater transmission capacity and make greater use of energy storage and customer-side resources to manage the generation on the supply side.

As clean electricity replaces fossil fuels in the state's economy, the transmission and distribution infrastructure, the sticks and wires of the grid, must meet increasingly complex service requirements and loads. The changing demand includes, but is not limited to, population changes, vehicle charging, serving other specialized technology that requires high power quality, electrification of building-related end uses now served by fossil fuels, electricity deployed on the customer side of the meter through net metering, community solar programs, and the growth of demand response programs.

Further, the clean energy transformation act requires that utilities making investments in new resources after May 2019, rely on energy efficiency, demand response, renewable resources, and energy storage to the maximum extent feasible, while transitioning away from coal and natural gas-fired generation. Electric utilities are actively working to ensure resource adequacy through the development of explicit resource adequacy standards and a standardized resource adequacy program. This work is ongoing and should result in a binding and enforceable program with a robust public oversight mechanism. Understanding and addressing any energy adequacy challenges created by a deeply decarbonized grid is key to keeping the state's supply of electricity reliable.

Sec. 2. RCW 19.280.065 and 2020 c 63 s 2 are each amended to read as follows:

(1) At least once every twelve months, the department and the commission shall jointly convene a meeting of representatives of the investor-owned utilities and consumer-owned utilities, regional planning organizations, transmission operators, energy analytics experts at Pacific Northwest national laboratory, and other stakeholders to discuss the current, short-term, and long-term adequacy of energy resources to serve the state's electric needs, and address specific steps the utilities can take to coordinate planning in light of the significant changes to the Northwest's power system including, but not limited to, technological developments, retirements of legacy baseload power generation resources, and changes in laws and regulations affecting power supply options. The department and commission shall provide a summary of these meetings, including any specific action items, to the governor and legislature within sixty days of the meeting.

(2) In 2023, the meeting convened by the department and the commission pursuant to subsection (1) of this section must address strategies to ensure power supply adequacy to avoid the risk of rolling blackouts. The meeting must also focus discussion on the extent to which proposed laws and regulations may require new state policy for resource adequacy. The stakeholder meeting should seek to identify regulatory and statutory incentives to enhance and ensure resource adequacy and reliability. If regional energy analytics capability is established at Pacific Northwest national laboratory, the department and the

commission must invite the Pacific Northwest national laboratory to the meeting to provide relevant analytics to inform the discussion.

(3) This section expires January 1, ((~~2025~~)) 2031.

Passed by the House April 14, 2023.
Passed by the Senate April 11, 2023.
Approved by the Governor May 1, 2023.
Filed in Office of Secretary of State May 2, 2023.

CHAPTER 201

[House Bill 1128]

MEDICAID—RESIDENTIAL PERSONAL NEEDS ALLOWANCE—ADJUSTMENT

AN ACT Relating to raising the residential personal needs allowance; and amending RCW 74.09.340.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 74.09.340 and 2022 c 164 s 1 are each amended to read as follows:

(1) Except as provided in RCW 72.36.160, beginning ((~~January 1, 2019~~)) July 1, 2023, the personal needs allowance for clients being served in medical institutions and in residential settings is ((~~$70~~)) $100.

(2) Beginning January 1, ((~~2020~~)) 2024, and each year thereafter, ((~~subject to the availability of amounts appropriated for this specific purpose,~~)) the personal needs allowance for clients being served in medical institutions and in residential settings shall:

(a) Be adjusted for economic trends and conditions by increasing the allowance by the percentage cost-of-living adjustment for old-age, survivors, and disability social security benefits as published by the federal social security administration; and

(b) Not exceed the maximum personal needs allowance permissible under the federal social security act.

(3) Unless subject to a separate determination of a monthly maintenance needs allowance for a community spouse by authority rule, beginning July 1, 2022, the personal needs allowance for a client receiving home and community-based waiver services authorized by home and community services while living at home shall:

(a) Be adjusted to an amount that is no less than 300 percent of the federal benefit rate; and

(b) Not exceed the maximum personal needs allowance permissible under the federal social security act.

Passed by the House February 1, 2023.
Passed by the Senate April 12, 2023.
Approved by the Governor May 1, 2023.
Filed in Office of Secretary of State May 2, 2023.

CHAPTER 202

[Engrossed Substitute House Bill 1187]

EMPLOYEE-UNION COMMUNICATIONS—PRIVILEGE FROM EXAMINATION AND DISCLOSURE

AN ACT Relating to privileged communication between employees and the unions that represent them; reenacting and amending RCW 5.60.060; adding a new section to chapter 28B.52 RCW; adding a new section to chapter 41.56 RCW; adding a new section to chapter 41.59 RCW; adding a new section to chapter 41.76 RCW; adding a new section to chapter 41.80 RCW; adding a new section to chapter 47.64 RCW; adding a new section to chapter 49.36 RCW; adding a new section to chapter 53.18 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that:

(1) Labor unions have fiduciary duties to act on behalf of the employees they represent in regard to employment relations with public-sector and private-sector employers, including personnel matters, grievances, labor disputes, wages, rates of pay, hours of employment, conditions of work, and collective bargaining.

(2) The discharge of those duties fosters industrial peace, human dignity, and the continued improvement of the employment relationship, with benefits to employees, employers, and the general public.

(3) The effective discharge of those duties depends on employees' confidence that their confidential communications with their union representatives in the course of union representation will be protected against disclosure, and that unions' internal deliberations concerning their representational duties be protected against disclosure so that unions may engage in the balancing that is necessary to carry out their duty to all members.

(4) To effectuate the public policy favoring effective collective bargaining, it is necessary to protect confidential union-employee communications in the course of union representation against disclosure, except in the rare circumstances where disclosure appears necessary to prevent injury from a crime or when legal claims are brought in formal proceedings against unions. The creation of a union-employee privilege is accordingly in the best interests of the state of Washington.

Sec. 2. RCW 5.60.060 and 2020 c 302 s 113 and 2020 c 42 s 1 are each reenacted and amended to read as follows:

(1) A spouse or domestic partner shall not be examined for or against his or her spouse or domestic partner, without the consent of the spouse or domestic partner; nor can either during marriage or during the domestic partnership or afterward, be without the consent of the other, examined as to any communication made by one to the other during the marriage or the domestic partnership. But this exception shall not apply to a civil action or proceeding by one against the other, nor to a criminal action or proceeding for a crime committed by one against the other, nor to a criminal action or proceeding against a spouse or domestic partner if the marriage or the domestic partnership occurred subsequent to the filing of formal charges against the defendant, nor to a criminal action or proceeding for a crime committed by said spouse or domestic partner against any child of whom said spouse or domestic partner is the parent or guardian, nor to a proceeding under chapter 71.05 or 71.09 RCW: PROVIDED, That the spouse or the domestic partner of a person sought to be

detained under chapter 71.05 or 71.09 RCW may not be compelled to testify and shall be so informed by the court prior to being called as a witness.

(2)(a) An attorney or counselor shall not, without the consent of his or her client, be examined as to any communication made by the client to him or her, or his or her advice given thereon in the course of professional employment.

(b) A parent or guardian of a minor child arrested on a criminal charge may not be examined as to a communication between the child and his or her attorney if the communication was made in the presence of the parent or guardian. This privilege does not extend to communications made prior to the arrest.

(3) A member of the clergy, a Christian Science practitioner listed in the Christian Science Journal, or a priest shall not, without the consent of a person making the confession or sacred confidence, be examined as to any confession or sacred confidence made to him or her in his or her professional character, in the course of discipline enjoined by the church to which he or she belongs.

(4) Subject to the limitations under RCW 71.05.217 (6) and (7), a physician or surgeon or osteopathic physician or surgeon or podiatric physician or surgeon shall not, without the consent of his or her patient, be examined in a civil action as to any information acquired in attending such patient, which was necessary to enable him or her to prescribe or act for the patient, except as follows:

(a) In any judicial proceedings regarding a child's injury, neglect, or sexual abuse or the cause thereof; and

(b) Ninety days after filing an action for personal injuries or wrongful death, the claimant shall be deemed to waive the physician-patient privilege. Waiver of the physician-patient privilege for any one physician or condition constitutes a waiver of the privilege as to all physicians or conditions, subject to such limitations as a court may impose pursuant to court rules.

(5) A public officer shall not be examined as a witness as to communications made to him or her in official confidence, when the public interest would suffer by the disclosure.

(6)(a) A peer support group counselor shall not, without consent of the peer support group client making the communication, be compelled to testify about any communication made to the counselor by the peer support group client while receiving counseling. The counselor must be designated as such by the agency employing the peer support group client prior to the incident that results in counseling. The privilege only applies when the communication was made to the counselor while acting in his or her capacity as a peer support group counselor. The privilege does not apply if the counselor was an initial responding first responder, department of corrections staff person, or jail staff person; a witness; or a party to the incident which prompted the delivery of peer support group counseling services to the peer support group client.

(b) For purposes of this section:

(i) "First responder" means:

(A) A law enforcement officer;

(B) A limited authority law enforcement officer;

(C) A firefighter;

(D) An emergency services dispatcher or recordkeeper;

(E) Emergency medical personnel, as licensed or certified by this state; or

(F) A member or former member of the Washington national guard acting in an emergency response capacity pursuant to chapter 38.52 RCW.

(ii) "Law enforcement officer" means a general authority Washington peace officer as defined in RCW 10.93.020.

(iii) "Limited authority law enforcement officer" means a limited authority Washington peace officer as defined in RCW 10.93.020 who is employed by the department of corrections, state parks and recreation commission, department of natural resources, liquor and cannabis board, or Washington state gambling commission.

(iv) "Peer support group client" means:

(A) A first responder;

(B) A department of corrections staff person; or

(C) A jail staff person.

(v) "Peer support group counselor" means:

(A) A first responder, department of corrections staff person, or jail staff person or a civilian employee of a first responder entity or agency, local jail, or state agency who has received training to provide emotional and moral support and counseling to a peer support group client who needs those services as a result of an incident in which the peer support group client was involved while acting in his or her official capacity; or

(B) A nonemployee counselor who has been designated by the first responder entity or agency, local jail, or state agency to provide emotional and moral support and counseling to a peer support group client who needs those services as a result of an incident in which the peer support group client was involved while acting in his or her official capacity.

(7) A sexual assault advocate may not, without the consent of the victim, be examined as to any communication made between the victim and the sexual assault advocate.

(a) For purposes of this section, "sexual assault advocate" means the employee or volunteer from a community sexual assault program or underserved populations provider, victim assistance unit, program, or association, that provides information, medical or legal advocacy, counseling, or support to victims of sexual assault, who is designated by the victim to accompany the victim to the hospital or other health care facility and to proceedings concerning the alleged assault, including police and prosecution interviews and court proceedings.

(b) A sexual assault advocate may disclose a confidential communication without the consent of the victim if failure to disclose is likely to result in a clear, imminent risk of serious physical injury or death of the victim or another person. Any sexual assault advocate participating in good faith in the disclosing of records and communications under this section shall have immunity from any liability, civil, criminal, or otherwise, that might result from the action. In any proceeding, civil or criminal, arising out of a disclosure under this section, the good faith of the sexual assault advocate who disclosed the confidential communication shall be presumed.

(8) A domestic violence advocate may not, without the consent of the victim, be examined as to any communication between the victim and the domestic violence advocate.

(a) For purposes of this section, "domestic violence advocate" means an employee or supervised volunteer from a community-based domestic violence program or human services program that provides information, advocacy,

counseling, crisis intervention, emergency shelter, or support to victims of domestic violence and who is not employed by, or under the direct supervision of, a law enforcement agency, a prosecutor's office, or the child protective services section of the department of children, youth, and families as defined in RCW 26.44.020.

(b) A domestic violence advocate may disclose a confidential communication without the consent of the victim if failure to disclose is likely to result in a clear, imminent risk of serious physical injury or death of the victim or another person. This section does not relieve a domestic violence advocate from the requirement to report or cause to be reported an incident under RCW 26.44.030(1) or to disclose relevant records relating to a child as required by RCW 26.44.030(15). Any domestic violence advocate participating in good faith in the disclosing of communications under this subsection is immune from liability, civil, criminal, or otherwise, that might result from the action. In any proceeding, civil or criminal, arising out of a disclosure under this subsection, the good faith of the domestic violence advocate who disclosed the confidential communication shall be presumed.

(9) A mental health counselor, independent clinical social worker, or marriage and family therapist licensed under chapter 18.225 RCW may not disclose, or be compelled to testify about, any information acquired from persons consulting the individual in a professional capacity when the information was necessary to enable the individual to render professional services to those persons except:

(a) With the written authorization of that person or, in the case of death or disability, the person's personal representative;

(b) If the person waives the privilege by bringing charges against the mental health counselor licensed under chapter 18.225 RCW;

(c) In response to a subpoena from the secretary of health. The secretary may subpoena only records related to a complaint or report under RCW 18.130.050;

(d) As required under chapter 26.44 or 74.34 RCW or RCW 71.05.217 (6) or (7); or

(e) To any individual if the mental health counselor, independent clinical social worker, or marriage and family therapist licensed under chapter 18.225 RCW reasonably believes that disclosure will avoid or minimize an imminent danger to the health or safety of the individual or any other individual; however, there is no obligation on the part of the provider to so disclose.

(10) An individual who acts as a sponsor providing guidance, emotional support, and counseling in an individualized manner to a person participating in an alcohol or drug addiction recovery fellowship may not testify in any civil action or proceeding about any communication made by the person participating in the addiction recovery fellowship to the individual who acts as a sponsor except with the written authorization of that person or, in the case of death or disability, the person's personal representative.

(11)(a) Neither a union representative nor an employee the union represents or has represented shall be examined as to, or be required to disclose, any communication between an employee and union representative or between union representatives made in the course of union representation except:

(i) To the extent such examination or disclosure appears necessary to prevent the commission of a crime that is likely to result in a clear, imminent risk of serious physical injury or death of a person;

(ii) In actions, civil or criminal, in which the represented employee is accused of a crime or assault or battery;

(iii) In actions, civil or criminal, where a union member is a party to the action, the union member may obtain a copy of any statement previously given by that union member concerning the subject matter of the action and may elicit testimony concerning such statements. The right of the union member to obtain such statements, or the union member's possession of such statements, does not render them discoverable over the objection of the union member;

(iv) In actions, regulatory, civil, or criminal, against the union or its affiliated, subordinate, or parent bodies or their agents; or

(v) When an admission of, or intent to engage in, criminal conduct is revealed by the represented union member to the union representative.

(b) The privilege created in this subsection (11) does not apply to any record of communications that would otherwise be subject to disclosure under chapter 42.56 RCW.

(c) The privilege created in this subsection (11) may not interfere with an employee's or union representative's applicable statutory mandatory reporting requirements, including but not limited to duties to report in chapters 26.44, 43.101, and 74.34 RCW.

(d) For purposes of this subsection:

(i) "Employee" means a person represented by a certified or recognized union regardless of whether the employee is a member of the union.

(ii) "Union" means any lawful organization that has as one of its primary purposes the representation of employees in their employment relations with employers, including without limitation labor organizations defined by 29 U.S.C. Sec. 152(5) and 5 U.S.C. Sec. 7103(a)(4), representatives defined by 45 U.S.C. Sec. 151, and bargaining representatives defined in RCW 41.56.030, and employee organizations as defined in RCW 28B.52.020, 41.59.020, 41.80.005, 41.76.005, 47.64.011, and 53.18.010.

(iii) "Union representation" means action by a union on behalf of one or more employees it represents in regard to their employment relations with employers, including personnel matters, grievances, labor disputes, wages, rates of pay, hours of employment, conditions of work, or collective bargaining.

(iv) "Union representative" means a person authorized by a union to act for the union in regard to union representation.

(v) "Communication" includes any oral, written, or electronic communication or document containing such communication.

NEW SECTION. **Sec. 3.** A new section is added to chapter 28B.52 RCW to read as follows:

The privilege established by RCW 5.60.060(11) shall apply to all employee organizations covered by this chapter and in all proceedings authorized by this chapter.

NEW SECTION. **Sec. 4.** A new section is added to chapter 41.56 RCW to read as follows:

The privilege established by RCW 5.60.060(11) shall apply to all employee organizations covered by this chapter and in all proceedings authorized by this chapter.

NEW SECTION. **Sec. 5.** A new section is added to chapter 41.59 RCW to read as follows:

The privilege established by RCW 5.60.060(11) shall apply to all employee organizations covered by this chapter and in all proceedings authorized by this chapter.

NEW SECTION. **Sec. 6.** A new section is added to chapter 41.76 RCW to read as follows:

The privilege established by RCW 5.60.060(11) shall apply to all employee organizations covered by this chapter and in all proceedings authorized by this chapter.

NEW SECTION. **Sec. 7.** A new section is added to chapter 41.80 RCW to read as follows:

The privilege established by RCW 5.60.060(11) shall apply to all employee organizations covered by this chapter and in all proceedings authorized by this chapter.

NEW SECTION. **Sec. 8.** A new section is added to chapter 47.64 RCW to read as follows:

The privilege established by RCW 5.60.060(11) shall apply to all collective bargaining representatives covered by this chapter and in all proceedings authorized by this chapter.

NEW SECTION. **Sec. 9.** A new section is added to chapter 49.36 RCW to read as follows:

The privilege established by RCW 5.60.060(11) shall apply to all labor unions covered by this chapter.

NEW SECTION. **Sec. 10.** A new section is added to chapter 53.18 RCW to read as follows:

The privilege established by RCW 5.60.060(11) shall apply to all employee organizations covered by this chapter and in all proceedings authorized by this chapter.

Passed by the House April 14, 2023.
Passed by the Senate April 7, 2023.
Approved by the Governor May 1, 2023.
Filed in Office of Secretary of State May 2, 2023.

CHAPTER 203

[House Bill 1199]

COMMON INTEREST COMMUNITIES—LICENSED CHILD CARE

AN ACT Relating to licensed child care in common interest communities; adding a new section to chapter 64.32 RCW; adding a new section to chapter 64.34 RCW; adding a new section to chapter 64.38 RCW; adding a new section to chapter 64.90 RCW; prescribing penalties; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 64.32 RCW to read as follows:

(1) An association of apartment owners may not adopt or enforce a restriction, covenant, condition, bylaw, rule, regulation, provision of a governing document, or master deed provision that effectively prohibits, unreasonably restricts, or limits, directly or indirectly, the use of an apartment as a licensed family home child care operated by a family day care provider or as a licensed child day care center, except as provided in subsection (2) of this section.

(2)(a) Nothing in this section prohibits an association of apartment owners from imposing reasonable regulations on a family home child care or a child day care center including, but not limited to, architectural standards, as long as those regulations are identical to those applied to all other apartments within the same association as the family home child care or the child day care center.

(b) An association may require that only an apartment with direct access may be used as a family home child care or child day care center. Direct access must be either from the outside of the building or through publicly accessible common areas and facilities.

(c) An association may adopt or enforce a restriction, covenant, condition, bylaw, rule, regulation, provision of a governing document, or master deed provision that requires a family home child care or a child day care center operating out of an apartment within the association to:

(i) Be licensed under chapter 43.216 RCW;

(ii) Indemnify and hold harmless the association against all claims, whether brought by judicial or administrative action, relating to the operation of the family home child care or the child day care center, excluding claims arising in common areas and facilities that the association is solely responsible for maintaining under the governing documents;

(iii) Obtain a signed waiver of liability releasing the association from legal claims directly related to the operation of the family home child care or the child day care center from the parent, guardian, or caretaker of each child being cared for by the family home child care or the child day care center. However, an association may not require that a waiver of liability under this subsection be notarized; and

(iv) Obtain day care insurance as defined in RCW 48.88.020 or provide self-insurance pursuant to chapter 48.90 RCW, consistent with the requirements in RCW 43.216.700.

(3) An association of apartment owners that willfully violates this section is liable to the family day care provider or the child day care center for actual damages, and shall pay a civil penalty to the family day care provider or the child day care center in an amount not to exceed $1,000.

(4) For the purposes of this section, the terms "family day care provider" and "child day care center" have the same meanings as in RCW 43.216.010.

NEW SECTION. **Sec. 2.** A new section is added to chapter 64.34 RCW to read as follows:

(1) A unit owners' association may not adopt or enforce a restriction, covenant, condition, bylaw, rule, regulation, provision of a governing document, or master deed provision that effectively prohibits, unreasonably restricts, or limits, directly or indirectly, the use of a unit as a licensed family home child

care operated by a family day care provider or as a licensed child day care center, except as provided in subsection (2) of this section.

(2)(a) Nothing in this section prohibits a unit owners' association from imposing reasonable regulations on a family home child care or a child day care center including, but not limited to, architectural standards, as long as those regulations are identical to those applied to all other units within the same association as the family home child care or the child day care center.

(b) An association may require that only a unit with direct access may be used as a family home child care or child day care center. Direct access must be either from the outside of the building or through publicly accessible common elements.

(c) An association may adopt or enforce a restriction, covenant, condition, bylaw, rule, regulation, provision of a governing document, or master deed provision that requires a family home child care or a child day care center operating out of a unit within the association to:

(i) Be licensed under chapter 43.216 RCW;

(ii) Indemnify and hold harmless the association against all claims, whether brought by judicial or administrative action, relating to the operation of the family home child care or the child day care center, excluding claims arising in common elements that the association is solely responsible for maintaining under the governing documents;

(iii) Obtain a signed waiver of liability releasing the association from legal claims directly related to the operation of the family home child care or the child day care center from the parent, guardian, or caretaker of each child being cared for by the family home child care or the child day care center. However, an association may not require that a waiver of liability under this subsection be notarized; and

(iv) Obtain day care insurance as defined in RCW 48.88.020 or provide self-insurance pursuant to chapter 48.90 RCW, consistent with the requirements in RCW 43.216.700.

(3) A unit owners' association that willfully violates this section is liable to the family day care provider or the child day care center for actual damages, and shall pay a civil penalty to the family day care provider or the child day care center in an amount not to exceed $1,000.

(4) For the purposes of this section, the terms "family day care provider" and "child day care center" have the same meanings as in RCW 43.216.010.

NEW SECTION. **Sec. 3.** A new section is added to chapter 64.38 RCW to read as follows:

(1) A homeowners' association may not adopt or enforce a restriction, covenant, condition, bylaw, rule, regulation, provision of a governing document, or master deed provision that effectively prohibits, unreasonably restricts, or limits, directly or indirectly, the use of a lot as a licensed family home child care operated by a family day care provider or as a licensed child day care center, except as provided in subsection (2) of this section.

(2)(a) Nothing in this section prohibits a homeowners' association from imposing reasonable regulations on a family home child care or a child day care center including, but not limited to, architectural standards, as long as those regulations are identical to those applied to all other lots within the same association as the family home child care or the child day care center.

(b) An association may require that only a lot with direct access may be used as a family home child care or child day care center. Direct access must be through publicly accessible common areas.

(c) An association may adopt or enforce a restriction, covenant, condition, bylaw, rule, regulation, provision of a governing document, or master deed provision that requires a family home child care or a child day care center operating out of a lot within the association to:

(i) Be licensed under chapter 43.216 RCW;

(ii) Indemnify and hold harmless the association against all claims, whether brought by judicial or administrative action, relating to the operation of the family home child care or the child day care center, excluding claims arising in common areas that the association is solely responsible for maintaining under the governing documents;

(iii) Obtain a signed waiver of liability releasing the association from legal claims directly related to the operation of the family home child care or the child day care center from the parent, guardian, or caretaker of each child being cared for by the family home child care or the child day care center. However, an association may not require that a waiver of liability under this subsection be notarized; and

(iv) Obtain day care insurance as defined in RCW 48.88.020 or provide self-insurance pursuant to chapter 48.90 RCW, consistent with the requirements in RCW 43.216.700.

(3) A homeowners' association that willfully violates this section is liable to the family day care provider or the child day care center for actual damages, and shall pay a civil penalty to the family day care provider or the child day care center in an amount not to exceed $1,000.

(4) For the purposes of this section, the terms "family day care provider" and "child day care center" have the same meanings as in RCW 43.216.010.

NEW SECTION. **Sec. 4.** A new section is added to chapter 64.90 RCW to read as follows:

(1) A unit owners association may not adopt or enforce a restriction, covenant, condition, bylaw, rule, regulation, provision of a governing document, or master deed provision that effectively prohibits, unreasonably restricts, or limits, directly or indirectly, the use of a unit as a licensed family home child care operated by a family day care provider or as a licensed child day care center, except as provided in subsection (2) of this section.

(2)(a) Nothing in this section prohibits a unit owners' association from imposing reasonable regulations on a family home child care or a child day care center including, but not limited to, architectural standards, as long as those regulations are identical to those applied to all other units within the same association as the family home child care or the child day care center.

(b) An association may require that only a unit with direct access may be used as a family home child care or child day care center. Direct access must be either from the outside of the building if the common interest community is in a building, or through publicly accessible common elements.

(c) An association may adopt or enforce a restriction, covenant, condition, bylaw, rule, regulation, provision of a governing document, or master deed provision that requires a family home child care or a child day care center operating out of a unit within the association to:

(i) Be licensed under chapter 43.216 RCW;

(ii) Indemnify and hold harmless the association against all claims, whether brought by judicial or administrative action, relating to the operation of the family home child care or the child day care center, excluding claims arising in common elements that the association is solely responsible for maintaining under the governing documents;

(iii) Obtain a signed waiver of liability releasing the association from legal claims directly related to the operation of the family home child care or the child day care center from the parent, guardian, or caretaker of each child being cared for by the family home child care or the child day care center. However, an association may not require that a waiver of liability under this subsection be notarized; and

(iv) Obtain day care insurance as defined in RCW 48.88.020 or provide self-insurance pursuant to chapter 48.90 RCW, consistent with the requirements in RCW 43.216.700.

(3) A unit owners association that willfully violates this section is liable to the family day care provider or the child day care center for actual damages, and shall pay a civil penalty to the family day care provider or the child day care center in an amount not to exceed $1,000.

(4) For the purposes of this section, the terms "family day care provider" and "child day care center" have the same meanings as in RCW 43.216.010.

NEW SECTION. **Sec. 5.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House April 14, 2023.
Passed by the Senate April 6, 2023.
Approved by the Governor May 1, 2023.
Filed in Office of Secretary of State May 2, 2023.

CHAPTER 204

[Substitute House Bill 1200]

PUBLIC EMPLOYERS—EMPLOYEE INFORMATION SHARING WITH EXCLUSIVE BARGAINING REPRESENTATIVES

AN ACT Relating to requiring public employers to provide employee information to exclusive bargaining representatives; adding a new section to chapter 41.56 RCW; adding a new section to chapter 41.59 RCW; adding a new section to chapter 28B.52 RCW; and adding a new section to chapter 41.80 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 41.56 RCW to read as follows:

(1) If the employer has the information in the employer's records, the employer shall provide to the exclusive bargaining representative the following information for each employee in an appropriate bargaining unit:

(a) The employee's name and date of hire;

(b) The employee's contact information, including: (i) Cellular, home, and work telephone numbers; (ii) work and the most up-to-date personal email addresses; and (iii) home address or personal mailing address; and

(c) Employment information, including the employee's job title, salary or rate of pay, and work site location or duty station.

(2) The employer must provide the information to the exclusive bargaining representative in an editable digital file format:

(a) Within 21 business days from the date of hire for a newly hired employee in an appropriate bargaining unit; and

(b) Every 120 business days for all employees in an appropriate bargaining unit.

(3) When there is a state-level representative of the exclusive bargaining representative for a bargaining unit, the employer may provide the information to the state-level representative.

(4) The exclusive bargaining representative may use the information provided under this section only for representation purposes. This section does not give authority to any exclusive bargaining representative to sell or provide access to lists of employees or the information provided to the exclusive bargaining representative pursuant to this section requested for commercial purposes.

(5) If an employer fails to comply with this section, the exclusive bargaining representative may bring a court action to enforce compliance. The court may order the employer to pay costs and reasonable attorneys' fees incurred by the exclusive bargaining representative.

(6)(a) This section does not apply to an employer specifically prohibited under its requirements as a cleared United States department of defense contractor from providing the employee information listed under subsection (1) of this section only for those employees covered by such requirements. The employer is required to provide the employee information under subsection (1) of this section for all employees not covered by the employer's requirements as a cleared United States department of defense contractor.

(b) This subsection (6) does not limit the employee information an employer must provide an exclusive bargaining representative pursuant to its duty to bargain in good faith or any other duty or obligation under applicable collective bargaining law, nor does this subsection (6) prohibit bargaining over the provision of employee information under applicable collective bargaining law.

NEW SECTION. **Sec. 2.** A new section is added to chapter 41.59 RCW to read as follows:

Section 1 of this act applies to this chapter.

NEW SECTION. **Sec. 3.** A new section is added to chapter 28B.52 RCW to read as follows:

Section 1 of this act applies to this chapter.

NEW SECTION. **Sec. 4.** A new section is added to chapter 41.80 RCW to read as follows:

Section 1 of this act applies to the following employers subject to this chapter:

(1) Western Washington University;

(2) Central Washington University;

(3) Eastern Washington University; and

(4) The Evergreen State College.

Passed by the House April 14, 2023.

Passed by the Senate April 12, 2023.
Approved by the Governor May 1, 2023.
Filed in Office of Secretary of State May 2, 2023.

CHAPTER 205

[House Bill 1312]

JURY SERVICE—PERSONS 80 YEARS OF AGE AND OLDER

AN ACT Relating to allowing persons who are 70 years of age or older to opt out of juror service; and amending RCW 2.36.100.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 2.36.100 and 2015 c 7 s 2 are each amended to read as follows:

(1) Except for a person who is not qualified for jury service under RCW 2.36.070 or who chooses to opt out of jury service under subsection (2) of this section, no person may be excused from jury service by the court except upon a showing of undue hardship, extreme inconvenience, public necessity, or any reason deemed sufficient by the court for a period of time the court deems necessary.

(2) A person who is 80 years of age or older may request to be excused from jury service if the person attests that the person is unable to serve due to health reasons. An attestation form must be developed by the court and may not include a requirement that a doctor's note be provided. This request must be granted by the court.

(3) At the discretion of the court's designee, after a request by a prospective juror to be excused, a prospective juror excused from juror service for a particular time may be assigned to another jury term within the twelve-month period. If the assignment to another jury term is made at the time a juror is excused from the jury term for which he or she was summoned, a second summons under RCW 2.36.095 need not be issued. This subsection does not apply to people excused from jury service under subsection (2) of this section.

((~~(3)~~)) (4) When the jury source list has been fully summoned within a consecutive twelve-month period and additional jurors are needed, jurors who have already served during the consecutive twelve-month period may be summoned again for service. A juror who has previously served may only be excused if he or she served at least one week of juror service within the preceding twelve months. An excuse for prior service shall be granted only upon the written request of the prospective juror, which request shall certify the terms of prior service. Prior jury service may include service in superior court, in a court of limited jurisdiction, in the United States District Court, or on a jury of inquest.

Passed by the House April 13, 2023.
Passed by the Senate March 31, 2023.
Approved by the Governor May 1, 2023.
Filed in Office of Secretary of State May 2, 2023.

CHAPTER 206

[House Bill 1349]

FORECLOSURES—VARIOUS PROVISIONS

AN ACT Relating to foreclosure protections; amending RCW 61.24.008, 61.24.030, 61.24.040, 61.24.160, 61.24.163, 61.24.165, 61.24.166, 61.24.190, and 61.24.135; adding a new section to chapter 61.24 RCW; adding a new section to chapter 61.12 RCW; providing a contingent expiration date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 61.24.008 and 2012 c 185 s 11 are each amended to read as follows:

(1) A borrower who has been referred to mediation before June 7, 2012, may continue through the mediation process and does not lose his or her right to mediation.

(2) A borrower who has not been referred to mediation as of June 7, 2012, may only be referred to mediation after a notice of default has been issued but no later than ((~~twenty days from the date a notice of sale is recorded~~)) 90 days prior to the date of sale listed in the notice of trustee's sale. If an amended notice of trustee's sale is recorded after the trustee sale has been stayed pursuant to RCW 61.24.130, the borrower may be referred to mediation no later than 25 days prior to the date of sale listed in the amended notice of trustee's sale.

(3) A borrower who has not been referred to mediation as of June 7, 2012, and who has had a notice of sale recorded may only be referred to mediation if the referral is made ((~~before twenty days have passed from the date the notice of sale was recorded~~)) at least 90 days prior to the date of sale listed in the notice of trustee's sale. If an amended notice of trustee's sale is recorded, the borrower may be referred to mediation no later than 25 days prior to the date of sale listed in the amended notice of trustee's sale.

Sec. 2. RCW 61.24.030 and 2021 c 151 s 3 are each amended to read as follows:

It shall be requisite to a trustee's sale:

(1) That the deed of trust contains a power of sale;

(2) That the deed of trust contains a statement that the real property conveyed is not used principally for agricultural purposes; provided, if the statement is false on the date the deed of trust was granted or amended to include that statement, and false on the date of the trustee's sale, then the deed of trust must be foreclosed judicially. Real property is used for agricultural purposes if it is used in an operation that produces crops, livestock, or aquatic goods;

(3) That a default has occurred in the obligation secured or a covenant of the grantor, which by the terms of the deed of trust makes operative the power to sell;

(4) That no action commenced by the beneficiary of the deed of trust is now pending to seek satisfaction of an obligation secured by the deed of trust in any court by reason of the grantor's default on the obligation secured: PROVIDED, That (a) the seeking of the appointment of a receiver, or the filing of a civil case to obtain court approval to access, secure, maintain, and preserve property from waste or nuisance, shall not constitute an action for purposes of this chapter; and (b) if a receiver is appointed, the grantor shall be entitled to any rents or profits derived from property subject to a homestead as defined in RCW 6.13.010. If the

deed of trust was granted to secure a commercial loan, this subsection shall not apply to actions brought to enforce any other lien or security interest granted to secure the obligation secured by the deed of trust being foreclosed;

(5) That the deed of trust has been recorded in each county in which the land or some part thereof is situated;

(6) That prior to the date of the notice of trustee's sale and continuing thereafter through the date of the trustee's sale, the trustee must maintain a street address in this state where personal service of process may be made, and the trustee must maintain a physical presence and have telephone service at such address;

(7)(a) That, for residential real property of up to four units, before the notice of trustee's sale is recorded, transmitted, or served, the trustee shall have proof that the beneficiary is the holder of any promissory note or other obligation secured by the deed of trust. A declaration by the beneficiary made under the penalty of perjury stating that the beneficiary is the holder of any promissory note or other obligation secured by the deed of trust shall be sufficient proof as required under this subsection.

(b) Unless the trustee has violated his or her duty under RCW 61.24.010(4), the trustee is entitled to rely on the beneficiary's declaration as evidence of proof required under this subsection.

(c) This subsection (7) does not apply to association beneficiaries subject to chapter 64.32, 64.34, or 64.38 RCW;

(8) That at least ((~~thirty~~)) 30 days before notice of sale shall be recorded, transmitted or served, written notice of default and, for residential real property of up to four units, the beneficiary declaration specified in subsection (7)(a) of this section shall be transmitted by the beneficiary or trustee to the borrower and grantor at their last known addresses by both first-class and either registered or certified mail, return receipt requested, and the beneficiary or trustee shall cause to be posted in a conspicuous place on the premises, a copy of the notice, or personally served on the borrower and grantor. This notice shall contain the following information:

(a) A description of the property which is then subject to the deed of trust;

(b) A statement identifying each county in which the deed of trust is recorded and the document number given to the deed of trust upon recording by each county auditor or recording officer;

(c) A statement that the beneficiary has declared the borrower or grantor to be in default, and a concise statement of the default alleged;

(d) An itemized account of the amount or amounts in arrears if the default alleged is failure to make payments;

(e) An itemized account of all other specific charges, costs, or fees that the borrower, grantor, or any guarantor is or may be obliged to pay to reinstate the deed of trust before the recording of the notice of sale;

(f) A statement showing the total of (d) and (e) of this subsection, designated clearly and conspicuously as the amount necessary to reinstate the note and deed of trust before the recording of the notice of sale;

(g) A statement that failure to cure the alleged default within ((~~thirty~~)) 30 days of the date of mailing of the notice, or if personally served, within ((~~thirty~~)) 30 days of the date of personal service thereof, may lead to recordation, transmittal, and publication of a notice of sale, and that the property described in

(a) of this subsection may be sold at public auction at a date no less than ((~~one hundred twenty~~)) 120 days in the future, or no less than ((~~one hundred fifty~~)) 150 days in the future if the borrower received a letter under RCW 61.24.031;

(h) A statement that the effect of the recordation, transmittal, and publication of a notice of sale will be to (i) increase the costs and fees and (ii) publicize the default and advertise the grantor's property for sale;

(i) A statement that the effect of the sale of the grantor's property by the trustee will be to deprive the grantor of all their interest in the property described in (a) of this subsection;

(j) A statement that the borrower, grantor, and any guarantor has recourse to the courts pursuant to RCW 61.24.130 to contest the alleged default on any proper ground;

(k) In the event the property secured by the deed of trust is residential real property of up to four units, a statement, prominently set out at the beginning of the notice, which shall state as follows:

"THIS NOTICE IS ONE STEP IN A PROCESS THAT COULD RESULT IN YOUR LOSING YOUR HOME.

You may be eligible for mediation in front of a neutral third party to help save your home.

CONTACT A HOUSING COUNSELOR OR AN ATTORNEY LICENSED IN WASHINGTON NOW to assess your situation and refer you to mediation if you might benefit. Mediation **MUST** be requested between the time you receive the Notice of Default and no later than ((~~twenty days after the Notice of Trustee Sale is recorded~~)) **90 calendar days BEFORE the date of sale** listed in the Notice of Trustee Sale. If an amended Notice of Trustee Sale is recorded providing a 45-day notice of the sale, mediation must be requested no later than **25 calendar days BEFORE the date of sale** listed in the amended Notice of Trustee Sale.

DO NOT DELAY. If you do nothing, a notice of sale may be issued as soon as 30 days from the date of this notice of default. The notice of sale will provide a minimum of 120 days' notice of the date of the actual foreclosure sale.

BE CAREFUL of people who claim they can help you. There are many individuals and businesses that prey upon borrowers in distress.

REFER TO THE CONTACTS BELOW for sources of assistance.

SEEKING ASSISTANCE

Housing counselors and legal assistance may be available at little or no cost to you. If you would like assistance in determining your rights and opportunities to keep your house, you may contact the following:

The statewide foreclosure hotline for assistance and referral to housing counselors recommended by the Housing Finance Commission

Telephone: . . . . . Website: . . . . . .

The United States Department of Housing and Urban Development

Telephone: . . . . . Website: . . . . . .

The statewide civil legal aid hotline for assistance and referrals to other housing counselors and attorneys
Telephone: . . . . . Website: . . . . . ."

The beneficiary or trustee shall obtain the toll-free numbers and website information from the department for inclusion in the notice;

(l) In the event the property secured by the deed of trust is residential real property of up to four units, the name and address of the holder of any promissory note or other obligation secured by the deed of trust and the name, address, and telephone number of a party acting as a servicer of the obligations secured by the deed of trust;

(m) For notices issued after June 30, 2018, on the top of the first page of the notice:

(i) The current beneficiary of the deed of trust;

(ii) The current mortgage servicer for the deed of trust; and

(iii) The current trustee for the deed of trust;

(9) That, for residential real property of up to four units, before the notice of the trustee's sale is recorded, transmitted, or served, the beneficiary has complied with RCW 61.24.031 and, if applicable, RCW 61.24.163;

(10) That, in the case where the borrower or grantor is known to the mortgage servicer or trustee to be deceased, the notice required under subsection (8) of this section must be sent to any spouse, child, or parent of the borrower or grantor known to the trustee or mortgage servicer, and to any owner of record of the property, at any address provided to the trustee or mortgage servicer, and to the property addressed to the heirs and devisees of the borrower.

(a) If the name or address of any spouse, child, or parent of such deceased borrower or grantor cannot be ascertained with use of reasonable diligence, the trustee must execute and record with the notice of sale a declaration attesting to the same.

(b) Reasonable diligence for the purposes of this subsection (10) means the trustee shall search in the county where the property is located, the public records and information for any obituary, will, death certificate, or case in probate within the county for the borrower and grantor;

(11) Upon written notice identifying the property address and the name of the borrower to the servicer or trustee by someone claiming to be a successor in interest to the borrower's or grantor's property rights, but who is not a party to the loan or promissory note or other obligation secured by the deed of trust, a trustee shall not record a notice of sale pursuant to RCW 61.24.040 until the trustee or mortgage servicer completes the following:

(a) Acknowledges the notice in writing and requests reasonable documentation of the death of the borrower or grantor from the claimant including, but not limited to, a death certificate or other written evidence of the death of the borrower or grantor. Other written evidence of the death of the borrower or grantor may include an obituary, a published death notice, or documentation of an open probate action for the estate of the borrower or grantor. The claimant must be allowed ((~~thirty~~)) 30 days from the date of this request to present this documentation. If the trustee or mortgage servicer has already obtained sufficient proof of the borrower's death, it may proceed by acknowledging the claimant's notice in writing and issuing a request under (b) of this subsection.

(b) If the mortgage servicer or trustee obtains or receives written documentation of the death of the borrower or grantor from the claimant, or otherwise independently confirms the death of the borrower or grantor, then the servicer or trustee must request in writing documentation from the claimant demonstrating the ownership interest of the claimant in the real property. A claimant has ((~~sixty~~)) 60 days from the date of the request to present this documentation. Documentation demonstrating the ownership interest of the claimant in the real property includes, but is not limited to, one of the following:

(i) Excerpts of a trust document noting the claimant as a beneficiary of a trust with title to the real property;

(ii) A will of the borrower or grantor listing the claimant as an heir or devisee with respect to the real property;

(iii) A probate order or finding of heirship issued by any court documenting the claimant as an heir or devisee or awarding the real property to the claimant;

(iv) A recorded lack of probate affidavit signed by any heir listing the claimant as an heir of the borrower or grantor pursuant to the laws of intestacy;

(v) A deed, such as a personal representative's deed, trustee's deed issued on behalf of a trust, statutory warranty deed, transfer on death deed, or other deed, giving any ownership interest to the claimant resulting from the death of the borrower or grantor or executed by the borrower or grantor for estate planning purposes; and

(vi) Other proof documenting the claimant as an heir of the borrower or grantor pursuant to state rules of intestacy set forth in chapter 11.04 RCW.

(c) If the mortgage servicer or trustee receives written documentation demonstrating the ownership interest of the claimant prior to the expiration of the ((~~sixty~~)) 60 days provided in (b) of this subsection, then the servicer or trustee must, within ((~~twenty~~)) 20 days of receipt of proof of ownership interest, provide the claimant with, at a minimum, the loan balance, interest rate and interest reset dates and amounts, balloon payments if any, prepayment penalties if any, the basis for the default, the monthly payment amount, reinstatement amounts or conditions, payoff amounts, and information on how and where payments should be made. The mortgage servicers shall also provide the claimant application materials and information, or a description of the process, necessary to request a loan assumption and modification.

(d) Upon receipt by the trustee or the mortgage servicer of the documentation establishing claimant's ownership interest in the real property, that claimant shall be deemed a "successor in interest" for the purposes of this section.

(e) There may be more than one successor in interest to the borrower's property rights. The trustee and mortgage servicer shall apply the provisions of this section to each successor in interest. In the case of multiple successors in interest, where one or more do not wish to assume the loan as coborrowers or coapplicants, a mortgage servicer may require any nonapplicant successor in interest to consent in writing to the application for loan assumption.

(f) The existence of a successor in interest under this section does not impose an affirmative duty on a mortgage servicer or alter any obligation the mortgage servicer has to provide a loan modification to the successor in interest. If a successor in interest assumes the loan, he or she may be required to

otherwise qualify for available foreclosure prevention alternatives offered by the mortgage servicer.

(g) (c), (e), and (f) of this subsection (11) do not apply to association beneficiaries subject to chapter 64.32, 64.34, or 64.38 RCW; and

(12) Nothing in this section shall prejudice the right of the mortgage servicer or beneficiary from discontinuing any foreclosure action initiated under the deed of trust act in favor of other allowed methods for pursuit of foreclosure of the security interest or deed of trust security interest.

Sec. 3. RCW 61.24.040 and 2018 c 306 s 2 are each amended to read as follows:

A deed of trust foreclosed under this chapter shall be foreclosed as follows:

(1) At least ((~~ninety~~)) 90 days before the sale, or if a letter under RCW 61.24.031 is required, at least ((~~one hundred twenty~~)) 120 days before the sale, the trustee shall:

(a) Record a notice in the form described in subsection (2) of this section in the office of the auditor in each county in which the deed of trust is recorded;

(b) To the extent the trustee elects to foreclose its lien or interest, or the beneficiary elects to preserve its right to seek a deficiency judgment against a borrower or grantor under RCW 61.24.100(3)(a), and if their addresses are stated in a recorded instrument evidencing their interest, lien, or claim of lien, or an amendment thereto, or are otherwise known to the trustee, cause a copy of the notice of sale described in subsection (2) of this section to be transmitted by both first-class and either certified or registered mail, return receipt requested, to the following persons or their legal representatives, if any, at such address:

(i)(A) The borrower and grantor;

(B) In the case where the borrower or grantor is deceased, to any successors in interest. If no successor in interest has been established, then to any spouse, child, or parent of the borrower or grantor, at the addresses discovered by the trustee pursuant to RCW 61.24.030(10);

(ii) The beneficiary of any deed of trust or mortgagee of any mortgage, or any person who has a lien or claim of lien against the property, that was recorded subsequent to the recordation of the deed of trust being foreclosed and before the recordation of the notice of sale;

(iii) The vendee in any real estate contract, the lessee in any lease, or the holder of any conveyances of any interest or estate in any portion or all of the property described in such notice, if that contract, lease, or conveyance of such interest or estate, or a memorandum or other notice thereof, was recorded after the recordation of the deed of trust being foreclosed and before the recordation of the notice of sale;

(iv) The last holder of record of any other lien against or interest in the property that is subject to a subordination to the deed of trust being foreclosed that was recorded before the recordation of the notice of sale;

(v) The last holder of record of the lien of any judgment subordinate to the deed of trust being foreclosed; and

(vi) The occupants of property consisting solely of a single-family residence, or a condominium, cooperative, or other dwelling unit in a multiplex or other building containing fewer than five residential units, whether or not the occupant's rental agreement is recorded, which notice may be a single notice addressed to "occupants" for each unit known to the trustee or beneficiary;

(c) Cause a copy of the notice of sale described in subsection (2) of this section to be transmitted by both first-class and either certified or registered mail, return receipt requested, to the plaintiff or the plaintiff's attorney of record, in any court action to foreclose a lien or other encumbrance on all or any part of the property, provided a court action is pending and a lis pendens in connection therewith is recorded in the office of the auditor of any county in which all or part of the property is located on the date the notice is recorded;

(d) Cause a copy of the notice of sale described in subsection (2) of this section to be transmitted by both first-class and either certified or registered mail, return receipt requested, to any person who has recorded a request for notice in accordance with RCW 61.24.045, at the address specified in such person's most recently recorded request for notice;

(e) Cause a copy of the notice of sale described in subsection (2) of this section to be posted in a conspicuous place on the property, or in lieu of posting, cause a copy of said notice to be served upon any occupant of the property.

(2)(a) If foreclosing on a commercial loan under RCW 61.24.005(4), the title of the document must be "Notice of Trustee's Sale of Commercial Loan(s)";

(b) In addition to all other indexing requirements, the notice required in subsection (1) of this section must clearly indicate on the first page the following information, which the auditor will index:

(i) The document number or numbers given to the deed of trust upon recording;

(ii) The parcel number(s);

(iii) The grantor;

(iv) The current beneficiary of the deed of trust;

(v) The current trustee of the deed of trust; and

(vi) The current loan mortgage servicer of the deed of trust;

(c) Nothing in this section:

(i) Requires a trustee or beneficiary to cause to be recorded any new notice of trustee's sale upon transfer of the beneficial interest in a deed of trust or the servicing rights for the associated mortgage loan;

(ii) Relieves a mortgage loan servicer of any obligation to provide the borrower with notice of a transfer of servicing rights or other legal obligations related to the transfer; or

(iii) Prevents the trustee from disclosing the beneficiary's identity to the borrower and to county and municipal officials seeking to abate nuisance and abandoned property in foreclosure pursuant to chapter 35.21 RCW.

(d) The notice must be in substantially the following form:

NOTICE OF TRUSTEE'S SALE

Grantor: .....

Current beneficiary of the deed of trust: .....

Current trustee of the deed of trust: .....

Current mortgage servicer of the deed of trust: .....

Reference number of the deed of trust: .....

Parcel number(s): .....

I.

NOTICE IS HEREBY GIVEN that the undersigned Trustee will on the . . . . day of . . . . . ., . . ., at the hour of . . . . o'clock . . . . M. at . . . . . [street address and location if inside a building] in the City of . . . . . ., State of Washington, sell at public auction to the highest and best bidder, payable at the time of sale, the following described real property, situated in the County(ies) of . . . . . ., State of Washington, to-wit:

[If any personal property is to be included in the trustee's sale, include a description that reasonably identifies such personal property]

which is subject to that certain Deed of Trust dated . . . . . ., . . ., recorded . . . . . ., . . ., under Auditor's File No. . . . ., records of . . . . . County, Washington, from . . . . . ., as Grantor, to . . . . . ., as Trustee, to secure an obligation in favor of . . . . . ., as Beneficiary, the beneficial interest in which was assigned by . . . . . ., under an Assignment recorded under Auditor's File No. . . . . [Include recording information for all counties if the Deed of Trust is recorded in more than one county.]

II.

No action commenced by the Beneficiary of the Deed of Trust is now pending to seek satisfaction of the obligation in any Court by reason of the Borrower's or Grantor's default on the obligation secured by the Deed of Trust.

[If there is another action pending to foreclose other security for all or part of the same debt, qualify the statement and identify the action.]

III.

The default(s) for which this foreclosure is made is/are as follows:

[If default is for other than payment of money, set forth the particulars]

Failure to pay when due the following amounts which are now in arrears:

IV.

The sum owing on the obligation secured by the Deed of Trust is: Principal $ . . . . . ., together with interest as provided in the note or other instrument secured from the . . . . day of . . . . . ., . . ., and such other costs and fees as are due under the note or other instrument secured, and as are provided by statute.

V.

The above-described real property will be sold to satisfy the expense of sale and the obligation secured by the Deed of Trust as provided by statute. The sale will be made without warranty, express or implied, regarding title, possession, or encumbrances on the . . . . day of . . . . . ., . . . The default(s) referred to in paragraph III must be cured by the . . . . day of . . . . . ., . . . (11 days before the sale date), to cause a discontinuance of the sale. The sale will be discontinued and terminated if at any time on or before the . . . . day of . . . . . ., . . ., (11 days before the sale date), the default(s) as set forth in paragraph III is/are cured and

the Trustee's fees and costs are paid. The sale may be terminated any time after the . . . . day of . . . . . ., . . . (11 days before the sale date), and before the sale by the Borrower, Grantor, any Guarantor, or the holder of any recorded junior lien or encumbrance paying the entire principal and interest secured by the Deed of Trust, plus costs, fees, and advances, if any, made pursuant to the terms of the obligation and/or Deed of Trust, and curing all other defaults.

VI.

A written notice of default was transmitted by the Beneficiary or Trustee to the Borrower and Grantor at the following addresses:

. . . . . .
. . . . . .
. . . . . .

by both first-class and certified mail on the . . . . day of . . . . . ., . . ., proof of which is in the possession of the Trustee; and the Borrower and Grantor were personally served on the . . . . day of . . . . . ., . . ., with said written notice of default or the written notice of default was posted in a conspicuous place on the real property described in paragraph I above, and the Trustee has possession of proof of such service or posting.

VII.

The Trustee whose name and address are set forth below will provide in writing to anyone requesting it, a statement of all costs and fees due at any time prior to the sale.

VIII.

The effect of the sale will be to deprive the Grantor and all those who hold by, through or under the Grantor of all their interest in the above-described property.

IX.

Anyone having any objection to the sale on any grounds whatsoever will be afforded an opportunity to be heard as to those objections if they bring a lawsuit to restrain the sale pursuant to RCW 61.24.130. Failure to bring such a lawsuit may result in a waiver of any proper grounds for invalidating the Trustee's sale.

[Add Part X to this notice if applicable under RCW 61.24.040(11)]

. . . . . .
. . . . . , Trustee
. . . . . } Address
. . . . . }
. . . . . }
. . . . . } Phone

[Acknowledgment]

(3) If the borrower received a letter under RCW 61.24.031, the notice specified in subsection (2)(d) of this section shall also include the following additional language:

"THIS NOTICE IS THE FINAL STEP BEFORE THE FORECLOSURE SALE OF YOUR HOME.

You have only ((~~20 DAYS from the recording date on this notice to pursue mediation~~)) **until 90 calendar days BEFORE the date of sale** listed in this Notice of Trustee Sale to be referred to mediation. If this is an amended Notice of Trustee Sale providing a 45-day notice of the sale, mediation must be requested no later than **25 calendar days BEFORE the date of sale** listed in this amended Notice of Trustee Sale.

DO NOT DELAY. CONTACT A HOUSING COUNSELOR OR AN ATTORNEY LICENSED IN WASHINGTON NOW to assess your situation and refer you to mediation if you are eligible and it may help you save your home. See below for safe sources of help.

SEEKING ASSISTANCE

Housing counselors and legal assistance may be available at little or no cost to you. If you would like assistance in determining your rights and opportunities to keep your house, you may contact the following:
The statewide foreclosure hotline for assistance and referral to housing counselors recommended by the Housing Finance Commission
Telephone: . . . . . Website: . . . . . .
The United States Department of Housing and Urban Development
Telephone: . . . . . Website: . . . . . .
The statewide civil legal aid hotline for assistance and referrals to other housing counselors and attorneys
Telephone: . . . . . Website: . . . . . ."

The beneficiary or trustee shall obtain the toll-free numbers and website information from the department for inclusion in the notice;

(4) In addition to providing the borrower and grantor the notice of sale described in subsection (2) of this section, the trustee shall include with the copy of the notice which is mailed to the grantor, a statement to the grantor in substantially the following form:

NOTICE OF FORECLOSURE
Pursuant to the Revised Code of Washington,
Chapter 61.24 RCW

The attached Notice of Trustee's Sale is a consequence of default(s) in the obligation to . . . . . ., the Beneficiary of your Deed of Trust and holder of the obligation secured thereby. Unless the default(s) is/are cured, your property will be sold at auction on the . . . . day of . . . . . ., . . .

To cure the default(s), you must bring the payments current, cure any other defaults, and pay accrued late charges and other costs, advances, and attorneys' fees as set forth below by the . . . . day of . . . . . ., . . . [11 days before the sale date]. To date, these arrears and costs are as follows:

	Currently due to reinstate on	Estimated amount that will be due to reinstate on . . . . (11 days before the date set for sale)
Delinquent payments from . . . . . ., . . ., in the amount of $ . . . /mo.:	$	$ . . . .
Late charges in the total amount of:	$	$ . . . .
		Estimated Amounts
Attorneys' fees:	$	$ . . . .
Trustee's fee:	$	$ . . . .
Trustee's expenses: (Itemization)		
Title report	$	$ . . . .
Recording fees	$	$ . . . .
Service/Posting of Notices	$	$ . . . .
Postage/Copying expense	$	$ . . . .
Publication	$	$ . . . .
Telephone charges	$	$ . . . .
Inspection fees	$	$ . . . .
. . . . .	$	$ . . . .
. . . . .	$	$ . . . .
TOTALS	$	$ . . . .

To pay off the entire obligation secured by your Deed of Trust as of the . . . . day of . . . . . you must pay a total of $. . . . . in principal, $. . . . . in interest, plus other costs and advances estimated to date in the amount of $. . . . . From

and after the date of this notice you must submit a written request to the Trustee to obtain the total amount to pay off the entire obligation secured by your Deed of Trust as of the payoff date.

As to the defaults which do not involve payment of money to the Beneficiary of your Deed of Trust, you must cure each such default. Listed below are the defaults which do not involve payment of money to the Beneficiary of your Deed of Trust. Opposite each such listed default is a brief description of the action necessary to cure the default and a description of the documentation necessary to show that the default has been cured.

Default	Description of Action Required to Cure and Documentation Necessary to Show Cure
. . . . .	. . . . .
	. . . . .
	. . . . .
. . . . .	. . . . .
	. . . . .
	. . . . .

You may reinstate your Deed of Trust and the obligation secured thereby at any time up to and including the . . . . day of . . . . . ., . . . [11 days before the sale date], by paying the amount set forth or estimated above and by curing any other defaults described above. Of course, as time passes other payments may become due, and any further payments coming due and any additional late charges must be added to your reinstating payment. Any new defaults not involving payment of money that occur after the date of this notice must also be cured in order to effect reinstatement. In addition, because some of the charges can only be estimated at this time, and because the amount necessary to reinstate or to pay off the entire indebtedness may include presently unknown expenditures required to preserve the property or to comply with state or local law, it will be necessary for you to contact the Trustee before the time you tender reinstatement or the payoff amount so that you may be advised of the exact amount you will be required to pay. Tender of payment or performance must be made to: . . . . . ., whose address is . . . . . ., telephone ( ) . . . . . AFTER THE . . . . DAY OF . . . . . ., . . ., YOU MAY NOT REINSTATE YOUR DEED OF TRUST BY PAYING THE BACK PAYMENTS AND COSTS AND FEES AND CURING THE OTHER DEFAULTS AS OUTLINED ABOVE. The Trustee will respond to any written request for current payoff or reinstatement amounts within ((~~ten~~)) 10 days of receipt of your written request. In such a case, you will only be able to stop the sale by paying, before the sale, the total principal balance ($ . . . . . .) plus accrued interest, costs and advances, if any, made pursuant to the terms of the documents and by curing the other defaults as outlined above.

You may contest this default by initiating court action in the Superior Court of the county in which the sale is to be held. In such action, you may raise any legitimate defenses you have to this default. A copy of your Deed of Trust and documents evidencing the obligation secured thereby are enclosed. You may wish to consult a lawyer. Legal action on your part may prevent or restrain the sale, but only if you persuade the court of the merits of your defense. You may

contact the Department of Financial Institutions or the statewide civil legal aid hotline for possible assistance or referrals.

The court may grant a restraining order or injunction to restrain a trustee's sale pursuant to RCW 61.24.130 upon five days notice to the trustee of the time when, place where, and the judge before whom the application for the restraining order or injunction is to be made. This notice shall include copies of all pleadings and related documents to be given to the judge. Notice and other process may be served on the trustee at:

NAME: . . . . . .
ADDRESS: . . . . . .
. . . . . .
TELEPHONE NUMBER: . . . . . .

If you do not reinstate the secured obligation and your Deed of Trust in the manner set forth above, or if you do not succeed in restraining the sale by court action, your property will be sold. The effect of such sale will be to deprive you and all those who hold by, through or under you of all interest in the property;

(5) In addition, the trustee shall cause a copy of the notice of sale described in subsection (2)(d) of this section (excluding the acknowledgment) to be published in a legal newspaper in each county in which the property or any part thereof is situated, once on or between the ((~~thirty-fifth~~)) 35th and ((~~twenty-eighth~~)) 28th day before the date of sale, and once on or between the ((~~fourteenth~~)) 14th and seventh day before the date of sale;

(6) In the case where no successor in interest has been established, and neither the beneficiary nor the trustee are able to ascertain the name and address of any spouse, child, or parent of the borrower or grantor in the manner described in RCW 61.24.030(10), then the trustee may, in addition to mailing notice to the property addressed to the unknown heirs and devisees of the grantor, serve the notice of sale by publication in a newspaper of general circulation in the county or city where the property is located once per week for three consecutive weeks. Upon this service by publication, to be completed not less than ((~~thirty~~)) 30 days prior to the date the sale is conducted, all unknown heirs shall be deemed served with the notice of sale;

(7)(a) If a servicer or trustee receives notification by someone claiming to be a successor in interest to the borrower or grantor, as under RCW 61.24.030(11), after the recording of the notice of sale, the trustee or servicer must request written documentation within five days demonstrating the ownership interest, provided that, the trustee may, but is not required to, postpone a trustee's sale upon receipt of such notification by someone claiming to be a successor in interest.

(b) Upon receipt of documentation establishing a claimant as a successor in interest, the servicer must provide the information in RCW 61.24.030(11)(c). Only if the servicer or trustee receives the documentation confirming someone as successor in interest more than ((~~forty-five~~)) 45 days before the scheduled sale must the servicer then provide the information in RCW 61.24.030(11)(c) to the claimant not less than ((~~twenty~~)) 20 days prior to the sale.

(c) (b) of this subsection (7) does not apply to association beneficiaries subject to chapter 64.32, 64.34, or 64.38 RCW.

(8) On the date and at the time designated in the notice of sale, the trustee or its authorized agent shall sell the property at public auction to the highest bidder. The trustee may sell the property in gross or in parcels as the trustee shall deem most advantageous;

(9) The place of sale shall be at any designated public place within the county where the property is located and if the property is in more than one county, the sale may be in any of the counties where the property is located. The sale shall be on Friday, or if Friday is a legal holiday on the following Monday, and during the hours set by statute for the conduct of sales of real estate at execution;

(10) The trustee has no obligation to, but may, for any cause the trustee deems advantageous, continue the sale for a period or periods not exceeding a total of ((~~one hundred twenty~~)) 120 days by (a) a public proclamation at the time and place fixed for sale in the notice of sale and if the continuance is beyond the date of sale, by giving notice of the new time and place of the sale by both first class and either certified or registered mail, return receipt requested, to the persons specified in subsection (1)(b)(i) and (ii) of this section to be deposited in the mail (i) not less than four days before the new date fixed for the sale if the sale is continued for up to seven days; or (ii) not more than three days after the date of the continuance by oral proclamation if the sale is continued for more than seven days, or, alternatively, (b) by giving notice of the time and place of the postponed sale in the manner and to the persons specified in subsection (1)(b), (c), (d), and (e) of this section and publishing a copy of such notice once in the newspaper(s) described in subsection (5) of this section, more than seven days before the date fixed for sale in the notice of sale. No other notice of the postponed sale need be given;

(11) The purchaser shall forthwith pay the price bid ((~~and on payment~~)). On payment and subject to RCW 61.24.050, the trustee shall execute to the purchaser its deed((~~; the~~)). The deed shall recite the facts showing that the sale was conducted in compliance with all of the requirements of this chapter and of the deed of trust, which recital shall be prima facie evidence of such compliance and conclusive evidence thereof in favor of bona fide purchasers and encumbrancers for value, except that these recitals shall not affect the lien or interest of any person entitled to notice under subsection (1) of this section, if the trustee fails to give the required notice to such person. In such case, the lien or interest of such omitted person shall not be affected by the sale and such omitted person shall be treated as if such person was the holder of the same lien or interest and was omitted as a party defendant in a judicial foreclosure proceeding;

(12) The sale as authorized under this chapter shall not take place less than ((~~one hundred ninety~~)) 190 days from the date of default in any of the obligations secured;

(13) If the trustee elects to foreclose the interest of any occupant or tenant of property comprised solely of a single-family residence, or a condominium, cooperative, or other dwelling unit in a multiplex or other building containing fewer than five residential units, the following notice shall be included as Part X of the Notice of Trustee's Sale:

X. NOTICE TO OCCUPANTS OR TENANTS

The purchaser at the trustee's sale is entitled to possession of the property on the 20th day following the sale, as against the grantor under the deed of trust (the owner) and anyone having an interest junior to the deed of trust, including occupants who are not tenants. After the 20th day following the sale the purchaser has the right to evict occupants who are not tenants by summary proceedings under chapter 59.12 RCW. For tenant-occupied property, the purchaser shall provide a tenant with written notice in accordance with RCW 61.24.060;

(14) Only one copy of all notices required by this chapter need be given to a person who is both the borrower and the grantor. All notices required by this chapter that are given to a general partnership are deemed given to each of its general partners, unless otherwise agreed by the parties.

Sec. 4. RCW 61.24.160 and 2012 c 185 s 5 are each amended to read as follows:

(1)(a) A housing counselor who is contacted by a borrower under RCW 61.24.031 has a duty to act in good faith to attempt to reach a resolution with the beneficiary on behalf of the borrower within the ((~~ninety~~)) 90 days provided from the date the beneficiary initiates contact with the borrower and the date the notice of default is issued. A resolution may include, but is not limited to, modification of the loan, an agreement to conduct a short sale, a deed in lieu of foreclosure transaction, or some other workout plan.

(b) Nothing in RCW 61.24.031 or this section precludes a meeting or negotiations between the housing counselor, borrower, and beneficiary at any time, including after the issuance of the notice of default.

(c) A borrower who is contacted under RCW 61.24.031 may seek the assistance of a housing counselor or attorney at any time.

(2) Housing counselors have a duty to act in good faith to assist borrowers by:

(a) Preparing the borrower for meetings with the beneficiary;

(b) Advising the borrower about what documents the borrower must have to seek a loan modification or other resolution;

(c) Informing the borrower about the alternatives to foreclosure, including loan modifications or other possible resolutions; and

(d) Providing other guidance, advice, and education as the housing counselor considers necessary.

(3) A housing counselor or attorney assisting a borrower may refer the borrower to mediation, pursuant to RCW 61.24.163, if the housing counselor or attorney determines that mediation is appropriate based on the individual circumstances and the borrower has received a notice of default. The referral to mediation may be made any time after a notice of default has been issued but no later than ((~~twenty days after the date a notice of sale has been recorded~~)) 90 days prior to the date of sale listed in the notice of trustee's sale. If an amended notice of trustee's sale is recorded after the trustee sale has been stayed pursuant to RCW 61.24.130, the borrower may be referred to mediation no later than 25 days prior to the date of sale listed in the amended notice of trustee's sale.

(4) For borrowers who have received a letter under RCW 61.24.031 before June 7, 2012, a referral to mediation by a housing counselor or attorney does not

preclude a trustee issuing a notice of default if the requirements of RCW 61.24.031 have been met.

(5) Housing counselors providing assistance to borrowers under RCW 61.24.031 are not liable for civil damages resulting from any acts or omissions in providing assistance, unless the acts or omissions constitute gross negligence or willful or wanton misconduct.

(6) Housing counselors shall provide information to the department to assist the department in its annual report to the legislature as required under RCW 61.24.163(18). The information provided to the department by the housing counselors should include outcomes of foreclosures and be similar to the information requested in the national foreclosure mortgage counseling client level foreclosure outcomes report form.

Sec. 5. RCW 61.24.163 and 2018 c 306 s 6 are each amended to read as follows:

(1) The foreclosure mediation program established in this section applies only to borrowers who have been referred to mediation by a housing counselor or attorney. The referral to mediation may be made any time after a notice of default has been issued but no later than ((~~twenty days after the date a notice of sale has been recorded~~)) 90 days prior to the date of sale listed in the notice of trustee's sale. If an amended notice of trustee's sale is recorded after the trustee sale has been stayed pursuant to RCW 61.24.130, the borrower may be referred to mediation no later than 25 days prior to the date of sale listed in the amended notice of trustee's sale. If the borrower has failed to elect to mediate within the applicable time frame, the borrower and the beneficiary may, but are under no duty to, agree in writing to enter the foreclosure mediation program. The mediation program under this section is not governed by chapter 7.07 RCW and does not preclude mediation required by a court or other provision of law.

(2) A housing counselor or attorney referring a borrower to mediation shall send a notice to the borrower and the department, stating that mediation is appropriate.

(3) Within ((~~ten~~)) 10 days of receiving the notice, the department shall:

(a) Send a notice to the beneficiary, the borrower, the housing counselor or attorney who referred the borrower, and the trustee stating that the parties have been referred to mediation. The notice must include the statements and list of documents and information described in subsections (4) and (5) of this section and a statement explaining each party's responsibility to pay the mediator's fee; and

(b) Select a mediator and notify the parties of the selection.

(4) Within ((~~twenty-three~~)) 23 days of the department's notice that the parties have been referred to mediation, the borrower shall transmit the documents required for mediation to the mediator and the beneficiary. The required documents include an initial homeowner financial information worksheet as required by the department. The worksheet must include, at a minimum, the following information:

(a) The borrower's current and future income;

(b) Debts and obligations;

(c) Assets;

(d) Expenses;

(e) Tax returns for the previous two years;

(f) Hardship information;

(g) Other applicable information commonly required by any applicable federal mortgage relief program.

(5) Within ((~~twenty~~)) 20 days of the beneficiary's receipt of the borrower's documents, the beneficiary shall transmit the documents required for mediation to the mediator and the borrower. The required documents include:

(a) An accurate statement containing the balance of the loan within ((~~thirty~~)) 30 days of the date on which the beneficiary's documents are due to the parties;

(b) Copies of the note and deed of trust;

(c) Proof that the entity claiming to be the beneficiary is the owner of any promissory note or obligation secured by the deed of trust. Sufficient proof may be a copy of the declaration described in RCW 61.24.030(7)(a);

(d) The best estimate of any arrearage and an itemized statement of the arrearages;

(e) An itemized list of the best estimate of fees and charges outstanding;

(f) The payment history and schedule for the preceding twelve months, or since default, whichever is longer, including a breakdown of all fees and charges claimed;

(g) All borrower-related and mortgage-related input data used in any net present values analysis. If no net present values analysis is required by the applicable federal mortgage relief program, then the input data required under the federal deposit insurance corporation and published in the federal deposit insurance corporation loan modification program guide, or if that calculation becomes unavailable, substantially similar input data as determined by the department;

(h) An explanation regarding any denial for a loan modification, forbearance, or other alternative to foreclosure in sufficient detail for a reasonable person to understand why the decision was made;

(i) Appraisal or other broker price opinion most recently relied upon by the beneficiary not more than ((~~ninety~~)) 90 days old at the time of the scheduled mediation; and

(j) The portion or excerpt of the pooling and servicing agreement or other investor restriction that prohibits the beneficiary from implementing a modification, if the beneficiary claims it cannot implement a modification due to limitations in a pooling and servicing agreement or other investor restriction, and documentation or a statement detailing the efforts of the beneficiary to obtain a waiver of the pooling and servicing agreement or other investor restriction provisions.

(6) Within ((~~seventy~~)) 70 days of receiving the referral from the department, the mediator shall convene a mediation session in the county where the property is located, unless the parties agree on another location. The parties may agree to extend the time in which to schedule the mediation session. If the parties agree to extend the time, the beneficiary shall notify the trustee of the extension and the date the mediator is expected to issue the mediator's certification.

(7)(a) The mediator may schedule phone conferences, consultations with the parties individually, and other communications to ensure that the parties have all the necessary information and documents to engage in a productive mediation.

(b) The mediator must send written notice of the time, date, and location of the mediation session to the borrower, the beneficiary, and the department at

least ((~~thirty~~)) 30 days prior to the mediation session. At a minimum, the notice must contain:

(i) A statement that the borrower may be represented in the mediation session by an attorney or other advocate;

(ii) A statement that a person with authority to agree to a resolution, including a proposed settlement, loan modification, or dismissal or continuation of the foreclosure proceeding, must be present either in person or on the telephone or videoconference during the mediation session; and

(iii) A statement that the parties have a duty to mediate in good faith and that failure to mediate in good faith may impair the beneficiary's ability to foreclose on the property or the borrower's ability to modify the loan or take advantage of other alternatives to foreclosure.

(8)(a) The borrower, the beneficiary or authorized agent, and the mediator must meet in person for the mediation session. However, a person with authority to agree to a resolution on behalf of the beneficiary may be present over the telephone or videoconference during the mediation session.

(b) After the mediation session commences, the mediator may continue the mediation session once, and any further continuances must be with the consent of the parties.

(9) The participants in mediation must address the issues of foreclosure that may enable the borrower and the beneficiary to reach a resolution, including but not limited to reinstatement, modification of the loan, restructuring of the debt, or some other workout plan. To assist the parties in addressing issues of foreclosure, the mediator may require the participants to consider the following:

(a) The borrower's current and future economic circumstances, including the borrower's current and future income, debts, and obligations for the previous ((~~sixty~~)) 60 days or greater time period as determined by the mediator;

(b) The net present value of receiving payments pursuant to a modified mortgage loan as compared to the anticipated net recovery following foreclosure;

(c) Any affordable loan modification calculation and net present value calculation when required under any federal mortgage relief program and any modification program related to loans insured by the federal housing administration, the veterans administration, and the rural housing service. If such a calculation is not provided or required, then the beneficiary must provide the net present value data inputs established by the federal deposit insurance corporation and published in the federal deposit insurance corporation loan modification program guide or other net present value data inputs as designated by the department. The mediator may run the calculation in order for a productive mediation to occur and to comply with the mediator certification requirement; and

(d) Any other loss mitigation guidelines to loans insured by the federal housing administration, the veterans administration, and the rural housing service, if applicable.

(10) A violation of the duty to mediate in good faith as required under this section may include:

(a) Failure to timely participate in mediation without good cause;

(b) Failure of the borrower or the beneficiary to provide the documentation required before mediation or pursuant to the mediator's instructions;

(c) Failure of a party to designate representatives with adequate authority to fully settle, compromise, or otherwise reach resolution with the borrower in mediation; and

(d) A request by a beneficiary that the borrower waive future claims he or she may have in connection with the deed of trust, as a condition of agreeing to a modification, except for rescission claims under the federal truth in lending act. Nothing in this section precludes a beneficiary from requesting that a borrower dismiss with prejudice any pending claims against the beneficiary, its agents, loan servicer, or trustee, arising from the underlying deed of trust, as a condition of modification.

(11) If the mediator reasonably believes a borrower will not attend a mediation session based on the borrower's conduct, such as the lack of response to the mediator's communications, the mediator may cancel a scheduled mediation session and send a written cancellation to the department and the trustee and send copies to the parties. The beneficiary may proceed with the foreclosure after receipt of the mediator's written confirmation of cancellation.

(12) Within seven business days after the conclusion of the mediation session, the mediator must send a written certification to the department and the trustee and send copies to the parties of:

(a) The date, time, and location of the mediation session;

(b) The names of all persons attending in person and by telephone or videoconference, at the mediation session;

(c) Whether a resolution was reached by the parties, including whether the default was cured by reinstatement, modification, or restructuring of the debt, or some other alternative to foreclosure was agreed upon by the parties;

(d) Whether the parties participated in the mediation in good faith; and

(e) If a written agreement was not reached, a description of any net present value test used, along with a copy of the inputs, including the result of any net present value test expressed in a dollar amount.

(13) If the parties are unable to reach an agreement, the beneficiary may proceed with the foreclosure after receipt of the mediator's written certification.

(14)(a) The mediator's certification that the beneficiary failed to act in good faith in mediation constitutes a defense to the nonjudicial foreclosure action that was the basis for initiating the mediation. In any action to enjoin the foreclosure, the beneficiary is entitled to rebut the allegation that it failed to act in good faith.

(b) The mediator's certification that the beneficiary failed to act in good faith during mediation does not constitute a defense to a judicial foreclosure or a future nonjudicial foreclosure action if a modification of the loan is agreed upon and the borrower subsequently defaults.

(c) If an affordable loan modification is not offered in the mediation or a written agreement was not reached and the mediator's certification shows that the net present value of the modified loan exceeds the anticipated net recovery at foreclosure, that showing in the certification constitutes a basis for the borrower to enjoin the foreclosure.

(15) The mediator's certification that the borrower failed to act in good faith in mediation authorizes the beneficiary to proceed with the foreclosure.

(16)(a) If a borrower has been referred to mediation before a notice of trustee sale has been recorded, a trustee may not record the notice of sale until the trustee receives the mediator's certification stating that the mediation has

been completed. If the trustee does not receive the mediator's certification, the trustee may record the notice of sale after ((~~ten~~)) 10 days from the date the certification to the trustee was due. If, after a notice of sale is recorded under this subsection (16)(a), the mediator subsequently issues a certification finding that the beneficiary violated the duty of good faith, the certification constitutes a basis for the borrower to enjoin the foreclosure.

(b) If a borrower has been referred to mediation after the notice of sale was recorded, the sale may not occur until the trustee receives the mediator's certification stating that the mediation has been completed.

(17) A mediator may charge reasonable fees as authorized by this subsection or as authorized by the department. Unless the fee is waived, the parties agree otherwise, or the department otherwise authorizes, a foreclosure mediator's fee may not exceed ((~~four hundred dollars~~)) $400 for preparing, scheduling, and conducting a mediation session lasting between one hour and three hours. For a mediation session exceeding three hours, the foreclosure mediator may charge a reasonable fee, as authorized by the department. The mediator must provide an estimated fee before the mediation, and payment of the mediator's fee must be divided equally between the beneficiary and the borrower. The beneficiary and the borrower must tender the loan mediator's fee within ((~~thirty~~)) 30 calendar days from receipt of the department's letter referring the parties to mediation or pursuant to the mediator's instructions.

(18) Beginning December 1, 2012, and every year thereafter, the department shall report annually to the legislature on:

(a) The performance of the program, including the numbers of borrowers who are referred to mediation by a housing counselor or attorney;

(b) The results of the mediation program, including the number of mediations requested by housing counselors and attorneys, the number of certifications of good faith issued, the number of borrowers and beneficiaries who failed to mediate in good faith, and the reasons for the failure to mediate in good faith, if known, the numbers of loans restructured or modified, the change in the borrower's monthly payment for principal and interest and the number of principal write-downs and interest rate reductions, and, to the extent practical, the number of borrowers who report a default within a year of restructuring or modification;

(c) The information received by housing counselors regarding outcomes of foreclosures; and

(d) Any recommendations for changes to the statutes regarding the mediation program.

(19) This section does not apply to certain federally insured depository institutions, as specified in RCW 61.24.166.

Sec. 6. RCW 61.24.165 and 2021 c 151 s 6 are each amended to read as follows:

(1) RCW 61.24.163 applies only to deeds of trust that are recorded against residential real property of up to four units.

(2) RCW 61.24.163 does not apply to deeds of trust:

(a) Securing a commercial loan;

(b) Securing obligations of a grantor who is not the borrower or a guarantor;

(c) Securing a purchaser's obligations under a seller-financed sale; or

(d) Where the grantor is a partnership, corporation, or limited liability company, or where the property is vested in a partnership, corporation, or limited liability company at the time the notice of default is issued.

(3) RCW 61.24.163 does not apply to association beneficiaries subject to chapter 64.32, 64.34, or 64.38 RCW.

(4) For purposes of referral and mediation under RCW 61.24.163, a person may be referred to mediation if the borrower is deceased and the person is a successor in interest of the deceased borrower ((~~who occupies the property as his or her primary residence~~)). The referring counselor or attorney must determine a person's eligibility under this section and indicate the grounds for eligibility on the referral to mediation submitted to the department. For the purposes of mediation under RCW 61.24.163, the person must be treated as a "borrower." This subsection does not impose an affirmative duty on the beneficiary to accept an assumption of the loan.

(5) For purposes of referral and mediation under RCW 61.24.163, a person may be referred to mediation if the person has been awarded title to the property in a proceeding for dissolution or legal separation. The referring counselor or attorney must determine the person's eligibility under this section and indicate the grounds for eligibility on the referral to mediation submitted to the department. For the purposes of mediation under RCW 61.24.163, the person must be treated as a "borrower." This subsection does not impose an affirmative duty on the beneficiary to accept an assumption of the loan.

Sec. 7. RCW 61.24.166 and 2021 c 151 s 7 are each amended to read as follows:

(1) Beginning on January 1, ((~~2023~~)) 2024, the provisions of RCW 61.24.163 do not apply to any federally insured depository institution, as defined in 12 U.S.C. Sec. 461(b)(1)(A), that certifies to the department under penalty of perjury that it was not a beneficiary of deeds of trust in more than ((~~two hundred fifty~~)) 250 trustee sales of residential real property of up to four units that occurred in this state during the preceding calendar year. A federally insured depository institution certifying that RCW 61.24.163 does not apply must do so annually, beginning no later than January 31, ((~~2023~~)) 2024, and no later than January 31st of each year thereafter.

(2) During the 2023 calendar year, the provisions of RCW 61.24.163 do not apply to any federally insured depository institution, as defined in 12 U.S.C. Sec. 461(b)(1)(A), that certifies to the department under penalty of perjury that it was not a beneficiary of deeds of trust in more than 250 trustee sales of owner-occupied residential real property that occurred in this state during 2019. A federally insured depository institution certifying that RCW 61.24.163 does not apply pursuant to this subsection must do so no later than 30 days after the effective date of this section.

(3) This section applies retroactively to January 1, 2023, and prospectively beginning with the effective date of this section.

Sec. 8. RCW 61.24.190 and 2021 c 151 s 11 are each amended to read as follows:

(1) Except as provided in subsections (6) and (7) of this section, beginning January 1, 2022, and every quarter thereafter, every beneficiary issuing notices

of default, or causing notices of default to be issued on its behalf, on residential real property under this chapter must:

(a) Report to the department, on a form approved by the department, the total number of residential real properties for which the beneficiary has issued a notice of default during the previous quarter, together with the street address, city, and zip code;

(b) Remit the amount required under subsection (2) of this section; and

(c) Report and update beneficiary contact information for the person and work group responsible for the beneficiary's compliance with the requirements of the foreclosure fairness act created in this chapter.

(2) For each residential real property for which a notice of default has been issued, the beneficiary issuing the notice of default, or causing the notice of default to be issued on the beneficiary's behalf, shall remit $250 to the department to be deposited, as provided under RCW 61.24.172, into the foreclosure fairness account. The $250 payment is required per property and not per notice of default. The beneficiary shall remit the total amount required in a lump sum each quarter.

(3) Reporting and payments under subsections (1) and (2) of this section are due within 45 days of the end of each quarter.

(4) For purposes of this section, "residential real property" includes residential real property with up to four dwelling units, whether or not the property or any part thereof is owner occupied.

(5) The department, including its officials and employees, may not be held civilly liable for damages arising from any release of information or the failure to release information related to the reporting required under this section, so long as the release was without gross negligence.

(6)(a) Beginning on January 1, 2023, this section does not apply to any beneficiary or loan servicer that is a federally insured depository institution, as defined in 12 U.S.C. Sec. 461(b)(1)(A), and that certifies under penalty of perjury that it has issued, or has directed a trustee or authorized agent to issue, fewer than 250 notices of default in the preceding year.

(b) During the 2023 calendar year, this section does not apply to any beneficiary or loan servicer that is a federally insured depository institution, as defined in 12 U.S.C. Sec. 461(b)(1)(A), and that certifies under penalty of perjury that fewer than 50 notices of trustee's sale were recorded on its behalf in 2019.

(c) This subsection (6) applies retroactively to January 1, 2023, and prospectively beginning with the effective date of this section.

(7) This section does not apply to association beneficiaries subject to chapter 64.32, 64.34, or 64.38 RCW.

NEW SECTION. **Sec. 9.** A new section is added to chapter 61.24 RCW to read as follows:

(1)(a) The trustee shall continue a foreclosure sale for at least 30 days upon receipt of a written notice from the homeowner assistance fund program administered by the Washington state housing finance commission that an application has been submitted to the homeowner assistance fund program on behalf of the applicant.

(b) The trustee shall continue the foreclosure sale for an additional 30-day period upon receipt of a written notice from the homeowner assistance fund program that the applicant is deemed eligible for the program.

(c) An automated notice issued by the homeowner assistance fund program does not qualify as written notice required in this section.

(2)(a) If an application to the homeowner assistance fund program is approved in the amount that would cure the default and make the beneficiary whole, a sale may not proceed while the approved application is pending for payment.

(b) A sale may proceed if the homeowner assistance fund program issues a written confirmation that an application has been denied or that no funds from the program will be paid in response to the application, and that any appeal process available to the applicant has been exhausted and is no longer pending.

(3) The trustee has no duty to delay a sale if the applicant has already received a continuance based on prior application to the homeowner assistance fund program, unless the applicant demonstrates to the trustee that a new application is pending based upon a substantial change in circumstances supporting a new application and that it has not been submitted solely for the purpose of delaying the sale.

(4)(a) The trustee must comply with the process set forth in RCW 61.24.040(1) for giving notice of the continued sale.

(b) A continuance of a sale pursuant to this section shall not be included in calculating the maximum sale continuance period of 120 days established in RCW 61.24.040(10).

(5) For purposes of this section, "applicant" means a person who:

(a) Is the borrower, a successor in interest to a deceased borrower, or a person who has been awarded title to the property; and

(b) Has submitted an application to the homeowner assistance fund program or on whose behalf an application to the program has been submitted.

NEW SECTION. **Sec. 10.** A new section is added to chapter 61.12 RCW to read as follows:

(1) It is unlawful for any person to seek or receive from any person or contract with any person for any fee or compensation for locating, or purporting to purchase or otherwise acquire the right to recover, funds held by a court or county that are proceeds from a foreclosure under this chapter and subject to disposition under RCW 61.12.150 in excess of:

(a) Five percent of the value thereof returned to such owner; and

(b) Reasonable attorneys' fees and costs, upon a motion and a hearing by a court of competent jurisdiction.

(2) Any person who violates this section is guilty of a misdemeanor and shall be fined not less than the amount of the fee or charge he or she has sought or received or contracted for, and not more than 10 times such amount, or imprisoned for not more than 30 days, or both.

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

19.86 RCW. Remedies provided by chapter 19.86 RCW are cumulative and not exclusive.

(4) Every contract for any fee or compensation for locating or purporting to purchase the right to recover funds held by a court that are proceeds from a foreclosure under this chapter and subject to disposition under RCW 61.12.150 must contain the following notice in 10-point boldface type or larger directly above the space reserved in the contract for the signature of the buyer:

"NOTICE TO HOMEOWNER:

(1) Do not sign this contract before you read it or if any spaces intended for the agreed terms are left blank.

(2) You are entitled to a copy of this contract at the time you sign it.

(3) You may cancel this contract within 10 days of signing by sending notice of cancellation by regular United States mail to the other party at his or her address shown on the contract, which notice shall be posted not later than midnight of the 10th day (excluding Sundays and holidays) following your signing of the contract."

Sec. 11. RCW 61.24.135 and 2021 c 151 s 5 are each amended to read as follows:

(1) It is an unfair or deceptive act or practice under the consumer protection act, chapter 19.86 RCW, for any person, acting alone or in concert with others, to offer, or offer to accept or accept from another, any consideration of any type not to bid, or to reduce a bid, at a sale of property conducted pursuant to a power of sale in a deed of trust. The trustee may decline to complete a sale or deliver the trustee's deed and refund the purchase price, if it appears that the bidding has been collusive or defective, or that the sale might have been void. However, it is not an unfair or deceptive act or practice for any person, including a trustee, to state that a property subject to a recorded notice of trustee's sale or subject to a sale conducted pursuant to this chapter is being sold in an "as-is" condition, or for the beneficiary to arrange to provide financing for a particular bidder or to reach any good faith agreement with the borrower, grantor, any guarantor, or any junior lienholder.

(2) It is an unfair or deceptive act in trade or commerce and an unfair method of competition in violation of the consumer protection act, chapter 19.86 RCW, for any person or entity to: (a) Violate the duty of good faith under RCW 61.24.163; (b) fail to comply with the requirements of RCW 61.24.174, as it existed prior to July 1, 2016, 61.24.173, or 61.24.190; or (c) fail to initiate contact with a borrower and exercise due diligence as required under RCW 61.24.031.

(3)(a) It is unlawful for any person to seek or receive from any person or contract with any person for any fee or compensation for locating, or purporting to purchase or otherwise acquire the right to recover, funds held by a court or county that are proceeds from a foreclosure under this chapter and subject to disposition under RCW 61.24.080 in excess of:

(i) Five percent of the value thereof returned to such owner; and

(ii) Reasonable attorneys' fees and costs, upon a motion and a hearing by a court of competent jurisdiction.

(b) Any person who violates (a) of this subsection is guilty of a misdemeanor and shall be fined not less than the amount of the fee or charge he

or she has sought or received or contracted for, and not more than 10 times such amount, or imprisoned for not more than 30 days, or both.

(c) The legislature finds that the practices covered by (a) of this subsection are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. Any violation of (a) of this subsection is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW. Remedies provided by chapter 19.86 RCW are cumulative and not exclusive.

(4) Every contract for any fee or compensation for locating or purporting to purchase the right to recover funds held by a court that are proceeds from a foreclosure under this chapter and subject to disposition under RCW 61.24.080 must contain the following notice in 10-point boldface type or larger directly above the space reserved in the contract for the signature of the buyer:

"NOTICE TO HOMEOWNER:

(1) Do not sign this contract before you read it or if any spaces intended for the agreed terms are left blank.

(2) You are entitled to a copy of this contract at the time you sign it.

(3) You may cancel this contract within 10 days of signing by sending notice of cancellation by regular United States mail to the other party at his or her address shown on the contract, which notice shall be posted not later than midnight of the 10th day (excluding Sundays and holidays) following your signing of the contract."

NEW SECTION. **Sec. 12.** (1) Section 9 of this act expires upon the expiration and permanent closure of the homeowner assistance fund program.

(2) The Washington state housing finance commission must provide written notice of the expiration date of section 9 of this act to the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the commission.

NEW SECTION. **Sec. 13.** Sections 7 through 9 and 12 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

Passed by the House April 14, 2023.
Passed by the Senate April 6, 2023.
Approved by the Governor May 1, 2023.
Filed in Office of Secretary of State May 2, 2023.

CHAPTER 207

[House Bill 1407]

DEVELOPMENTAL DISABILITY SERVICES—ELIGIBILITY REDETERMINATIONS—AGE

AN ACT Relating to maintaining eligibility for developmental disability services; and amending RCW 71A.16.040.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 71A.16.040 and 1989 c 175 s 141 are each amended to read as follows:

(1) On receipt of an application for services submitted under RCW 71A.16.030, the secretary in a timely manner shall make a written determination as to whether the applicant is eligible for services provided under this title for persons with developmental disabilities.

(2) The secretary shall give notice of the secretary's determination on eligibility to the person who submitted the application and to the applicant, if the applicant is a person other than the person who submitted the application for services. The notice shall also include a statement advising the recipient of the right to an adjudicative proceeding under RCW 71A.10.050 and the right to judicial review of the secretary's final decision.

(3) The secretary may establish rules for redetermination of eligibility for services under this title; however, the rules may not terminate or require redetermination of eligibility for a child under the age of 18 based solely on the child's age if the child has been determined to be eligible for services on or after the child's third birthday.

Passed by the House February 28, 2023.
Passed by the Senate April 12, 2023.
Approved by the Governor May 1, 2023.
Filed in Office of Secretary of State May 2, 2023.

CHAPTER 208

[Engrossed Substitute House Bill 1424]
DOGS AND CATS—RETAIL SALES

AN ACT Relating to consumer protection with respect to the sale and adoption of dogs and cats; amending RCW 16.52.360, 16.52.015, and 16.52.310; adding a new section to chapter 63.10 RCW; adding a new section to chapter 63.14 RCW; adding a new section to chapter 31.04 RCW; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 16.52.360 and 2021 c 76 s 1 are each amended to read as follows:

(1) Except as provided in this section, a retail pet store may not sell or offer for sale any dog or cat.

(2) A retail pet store that sold or offered for sale any dog prior to July 25, 2021, may sell or offer for sale a dog only if the retail pet store meets the following requirements:

(a) Any dog sold or offered for sale must be sold or offered for sale only at the address identified on the retail pet store's business license, as defined in RCW 19.02.020;

(b) Any dog sold or offered for sale must be obtained either:

(i) Directly from a breeder, including an out-of-state breeder, who satisfies the requirements of RCW 16.52.310; or

(ii) From a United States department of agriculture licensed broker pursuant to the federal animal welfare act, Title 7 U.S.C. Sec. 2131 et seq. as amended, that obtains dogs from a breeder in compliance with this section. A licensed broker shall provide all breeder documentation required by a breeder under this section as well as any applicable federal and state license numbers for the breeder or the broker;

(c) Any dog sold or offered for sale must possess documentation obtained from its breeder, either directly or through a United States department of agriculture licensed broker, demonstrating:

(i) The dog was not separated from its mother prior to the age of eight weeks; and

(ii) The breeder's compliance with RCW 16.52.310 on the date the dog was obtained from the breeder;

(d) A retail pet store shall, prior to obtaining a dog from a breeder or a broker, obtain all inspection reports for the breeder created by the United States department of agriculture within the previous three years, if applicable. A retail pet store shall maintain and, upon request, produce the records for a period of five years following the sale of a dog obtained from a breeder or broker;

(e) Any advertisement, including website postings, offering to sell a dog must include:

(i) A range of prices at which a dog, breed of dog, or dogs having other distinguishing traits are offered for sale;

(ii) The age of the dog; and

(iii) Supporting documentation providing the applicable federal or state license numbers for the breeder of the dog, if applicable;

(f) The retail pet store shall post in a location visible from the entrance of the retail pet store on a kiosk or other form of bulletin board the purchase price, age, and the following information on the dog's breeder:

(i) Full name;

(ii) Kennel name, if applicable;

(iii) City and state; and

(iv) Any applicable state or federal license numbers; and

(g) The retail pet store shall disclose to a prospective consumer in writing, prior to the sale of a dog, the following information about the dog:

(i) The purchase price of the dog; and

(ii) Any applicable federal or state license numbers and an unredacted list of all violations of any federal or state law the dog breeder or cat breeder received in the previous two years on a federal or state inspection report.

(3) A retail pet store may provide space and appropriate care for animals, including dogs and cats, owned by an animal care and control agency or animal rescue group for the purpose of adopting those animals to the public. Each retail pet store shall display on each cage or pen containing a dog or cat a label stating the certificate of source, including the name and address of the animal care and control agency or animal rescue group.

(4)(a) It is a class 1 civil infraction under chapter 7.80 RCW for any person or corporation who violates this section, subject to the maximum infraction of $250. The civil infraction may be served on the pet store's registered agent.

(i) An enforcement officer as defined in RCW 7.80.040 or an animal control officer under RCW 16.52.015 may investigate and enforce this section.

(ii) Appeals are pursuant to chapter 7.80 RCW.

(b) Any retail pet store that violates this section three or more times over a one-year period is prohibited from selling or offering to sell any dog or cat.

(5) Nothing in this section prohibits any city, town, or county from enacting or enforcing a local ordinance that places greater proscriptions on the sale of any

animal by a retail pet store than proscribed by this section or that provides penalties equal to or greater than the penalties provided in this section.

Sec. 2. RCW 16.52.015 and 2011 c 172 s 2 are each amended to read as follows:

(1) Law enforcement agencies and animal care and control agencies may enforce the provisions of this chapter. Animal care and control agencies may enforce the provisions of this chapter in a county or city only if the county or city legislative authority has entered into a contract with the agency to enforce the provisions of this chapter.

(2) Animal control officers enforcing this chapter shall comply with the same constitutional and statutory restrictions concerning the execution of police powers imposed on law enforcement officers who enforce this chapter and other criminal laws of the state of Washington.

(3) Animal control officers have the following enforcement powers when enforcing this chapter:

(a) The power to issue civil penalties based on violations under section 1 of this act;

(b) The power to issue citations based on probable cause to offenders for civil infractions and misdemeanor and gross misdemeanor violations of this chapter or RCW 9.08.070 through 9.08.078 or 81.48.070;

((~~(b)~~)) (c) The power to cause a law enforcement officer to arrest and take into custody any person the animal control officer has probable cause to believe has committed or is committing a violation of this chapter or RCW 9.08.070 or 81.48.070. Animal control officers may make an oral complaint to a prosecuting attorney or a law enforcement officer to initiate arrest. The animal control officer causing the arrest shall file with the arresting agency a written complaint within ((~~twenty four~~)) 24 hours of the arrest, excluding Sundays and legal holidays, stating the alleged act or acts constituting a violation;

((~~(c)~~)) (d) The power to carry nonfirearm protective devices for personal protection;

((~~(d)~~)) (e) The power to prepare affidavits in support of search warrants and to execute search warrants when accompanied by law enforcement officers to investigate violations of this chapter or RCW 9.08.070 or 81.48.070, and to seize evidence of those violations.

(4) Upon request of an animal control officer who has probable cause to believe that a person has violated this chapter or RCW 9.08.070 or 81.48.070, a law enforcement agency officer may arrest the alleged offender.

Sec. 3. RCW 16.52.310 and 2009 c 286 s 2 are each amended to read as follows:

(1) A person may not own, possess, control, or otherwise have charge or custody of more than ((~~fifty~~)) 50 dogs with intact sexual organs over the age of six months at any time.

(2) Any person who owns, possesses, controls, or otherwise has charge or custody of more than ((~~ten~~)) 10 dogs with intact sexual organs over the age of six months and keeps the dogs in an enclosure for the majority of the day must at a minimum:

(a) Provide space to allow each dog to turn about freely, to stand, sit, and lie down. The dog must be able to lie down while fully extended without the dog's

head, tail, legs, face, or feet touching any side of an enclosure and without touching any other dog in the enclosure when all dogs are lying down simultaneously. The interior height of the enclosure must be at least six inches higher than the head of the tallest dog in the enclosure when it is in a normal standing position. Each enclosure must be at least three times the length and width of the longest dog in the enclosure, from tip of nose to base of tail and shoulder blade to shoulder blade.

(b) Provide each dog that is over the age of four months with a minimum of one exercise period during each day for a total of not less than one hour of exercise during such day. Such exercise must include either leash walking or giving the dog access to an enclosure at least four times the size of the minimum allowable enclosure specified in (a) of this subsection allowing the dog free mobility for the entire exercise period, but may not include use of a cat mill, jenny mill, slat mill, or similar device, unless prescribed by a doctor of veterinary medicine. The exercise requirements in this subsection do not apply to a dog certified by a doctor of veterinary medicine as being medically precluded from exercise.

(c) Maintain adequate housing facilities and primary enclosures that meet the following requirements at a minimum:

(i) Housing facilities and primary enclosures must be kept in a sanitary condition. Housing facilities where dogs are kept must be sufficiently ventilated at all times to minimize odors, drafts, ammonia levels, and to prevent moisture condensation. Housing facilities must have a means of fire suppression, such as functioning fire extinguishers, on the premises and must have sufficient lighting to allow for observation of the dogs at any time of day or night;

(ii) Housing facilities must enable all dogs to remain dry and clean;

(iii) Housing facilities must provide shelter and protection from extreme temperatures and weather conditions that may be uncomfortable or hazardous to the dogs;

(iv) Housing facilities must provide sufficient shade to shelter all the dogs housed in the primary enclosure at one time;

(v) A primary enclosure must have floors that are constructed in a manner that protects the dogs' feet and legs from injury;

(vi) Primary enclosures must be placed no higher than forty-two inches above the floor and may not be placed over or stacked on top of another cage or primary enclosure;

(vii) Feces, hair, dirt, debris, and food waste must be removed from primary enclosures at least daily or more often if necessary to prevent accumulation and to reduce disease hazards, insects, pests, and odors; and

(viii) All dogs in the same enclosure at the same time must be compatible, as determined by observation. Animals with a vicious or aggressive disposition must never be placed in an enclosure with another animal, except for breeding purposes. Breeding females in heat may not be in the same enclosure at the same time with sexually mature males, except for breeding purposes. Breeding females and their litters may not be in the same enclosure at the same time with other adult dogs. Puppies under twelve weeks may not be in the same enclosure at the same time with other adult dogs, other than the dam or foster dam unless under immediate supervision.

(d) Provide dogs with easy and convenient access to adequate amounts of clean food and water. Food and water receptacles must be regularly cleaned and sanitized. All enclosures must contain potable water that is not frozen, is substantially free from debris, and is readily accessible to all dogs in the enclosure at all times.

(e) Provide veterinary care without delay when necessary. A dog may not be bred if a veterinarian determines that the animal is unfit for breeding purposes. Only dogs between the ages of twelve months and eight years of age may be used for breeding. Animals requiring euthanasia must be euthanized only by a licensed veterinarian.

(3) A person who violates subsection (1) or (2) of this section is guilty of a gross misdemeanor.

(4) This section does not apply to the following:

(a) A publicly operated animal control facility or animal shelter;

(b) A private, charitable not-for-profit humane society or animal adoption organization;

(c) A veterinary facility;

(d) A retail pet store;

(e) A research institution;

(f) A boarding facility; or

(g) A grooming facility.

(5) ((~~Subsection (1) of this section does not apply to a commercial dog breeder licensed, before January 1, 2010, by the United States department of agriculture pursuant to the federal animal welfare act (Title 7 U.S.C. Sec. 2131 et seq.).~~

~~(6)~~)) For the purposes of this section, the following definitions apply, unless the context clearly requires otherwise:

(a) "Dog" means any member of *Canis lupus familiaris*; and

(b) "Retail pet store" means a commercial establishment that engages in a for-profit business of selling at retail cats, dogs, or other animals to be kept as household pets and is regulated by the United States department of agriculture.

NEW SECTION. **Sec. 4.** A new section is added to chapter 63.10 RCW to read as follows:

A lessor shall not finance a consumer lease for the purchase of a dog or cat. A lease contract entered into on or after the effective date of this section for the purchase of a dog or cat is void and unenforceable and the lessor shall have no right to collect, receive, or retain any principal, interest, or charges related to the lease contract.

NEW SECTION. **Sec. 5.** A new section is added to chapter 63.14 RCW to read as follows:

A retail installment transaction entered into on or after the effective date of this section for the purchase of a dog or cat is void and unenforceable and the retail seller shall have no right to collect, receive, or retain any principal, interest, or charges related to the retail installment transaction.

NEW SECTION. **Sec. 6.** A new section is added to chapter 31.04 RCW to read as follows:

A licensee shall not finance or make a loan for the purchase of a dog or cat. A loan entered into on or after the effective date of this section for the purchase

of a dog or cat is void and unenforceable and the licensee shall have no right to collect, receive, or retain any principal, interest, or charges related to the loan.

Passed by the House April 14, 2023.
Passed by the Senate April 5, 2023.
Approved by the Governor May 1, 2023.
Filed in Office of Secretary of State May 2, 2023.

CHAPTER 209

[Substitute House Bill 1435]

HOME CARE SAFETY NET ASSESSMENT—DEVELOPMENT

AN ACT Relating to the development of a home care safety net assessment; adding a new section to chapter 70.127 RCW; and adding a new section to chapter 74.39A RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 70.127 RCW to read as follows:

(1) Each consumer directed employer and each in-home services agency that is licensed under this chapter to provide home care services, hospice services, or home health services shall submit financial information to the department as necessary to inform the development of a home care safety net assessment to use in securing federal matching funds under federally prescribed programs available through the state medicaid plan or a waiver, as specified in subsection (2) of this section.

(2) The financial information to be submitted under subsection (1) of this section shall be comprised of the following information related to in-home services client revenue, separated by type of service and payer, from the 12-month period between July 1, 2022, and July 1, 2023:

(a) Total client revenue for home care services expressed as client revenue for home care services paid by:

(i) Medicaid;

(ii) Medicare;

(iii) Private pay;

(iv) Commercial insurance;

(v) The veterans administration; and

(vi) All other payers;

(b) Total client revenue for home health services expressed as client revenue for home health services paid by:

(i) Medicaid;

(ii) Medicare;

(iii) Private pay;

(iv) Commercial insurance;

(v) The veterans administration; and

(vi) All other payers; and

(c) Total client revenue for hospice services expressed as client revenue for hospice services paid by:

(i) Medicaid;

(ii) Medicare;

(iii) Private pay;

(iv) Commercial insurance;

(v) The veterans administration; and

(vi) All other payers.

(3) In-home services agencies and consumer directed employers shall submit the financial information to the department by January 1, 2024.

(4)(a) The department shall adopt guidance for reporting standards under subsection (1) of this section that assist in-home services agencies and consumer directed employers to deidentify any in-home services agency's clients from the financial information before submitting the financial information to the department.

(b)(i) The financial information submitted to the department under this section is considered proprietary information and is confidential and may not be disclosed under chapter 42.56 RCW.

(ii)(A) The department may only distribute nonaggregated financial information that identifies in-home services agencies and consumer directed employers, to the extent necessary, to:

(I) Members of the work group established in section 2 of this act who are representing a state agency;

(II) Executive branch agency staff who are providing support to the work group established in section 2 of this act or are involved in the development of a home care safety net assessment; and

(III) An entity under contract with the health care authority to provide data analysis of the financial information as necessary to assist the work group established in section 2 of this act to carry out its responsibilities.

(B) Any information that has been distributed pursuant to this subsection (4)(b)(ii) may not be further distributed by the recipient of the financial information and must be destroyed once the department and the health care authority have determined that it is no longer necessary for the support of the activities of the work group established in section 2 of this act.

(C) The health care authority may release reports containing nonaggregated data in order to meet relevant regulatory requirements.

(5) For the purposes of this section:

(a) "Client revenue" means the total amount of revenue received as client care for in-home services determined on a cash basis of accounting. "Client revenue" includes all payments received as client care revenue from home care, home health, and hospice from medicaid, commercial insurance, and all other payers for payment for services rendered.

(b) "Consumer directed employer" has the same meaning as in RCW 74.39A.009.

NEW SECTION. **Sec. 2.** A new section is added to chapter 74.39A RCW to read as follows:

(1) The home care safety net assessment work group is established, with the following members:

(a) The director of the health care authority, or the director's designee;

(b) The secretary of the department, or the secretary's designee;

(c) The secretary of the department of health, or the secretary's designee;

(d) The director of the department of revenue, or the director's designee;

(e) A representative from the exclusive bargaining representative of individual providers;

(f) A representative of a coalition representing home care agencies serving medicaid clients;

(g) A representative of an association representing home care and home health agencies; and

(h) A representative from each consumer directed employer in Washington.

(2) The work group shall develop a home care safety net assessment proposal to secure federal matching funds under federally prescribed programs available through the state medicaid plan or a waiver. In developing the proposal, the work group shall consider the financial information provided by consumer directed employers and in-home services agencies under section 1 of this act to the extent authorized under section 1(4)(b)(ii) of this act and any relevant data analysis of the financial information provided by a private entity under contract with the health care authority pursuant to subsection (3) of this section.

(3) The health care authority may contract with a private entity to provide data analysis of the financial information submitted by in-home services agencies and consumer directed employers as necessary to inform the work group's development of a home care safety net assessment proposal. The data analysis must include the development of various financial modeling options that may meet federal regulations for approval of the assessment.

(4) Staff support to the work group must be provided by the health care authority.

(5) The work group shall report its findings to the governor and the appropriate committees of the legislature by December 1, 2024. The report must include recommendations related to the elements necessary to adopt and implement a home care safety net assessment proposal that meets the requirements needed for federal approval.

Passed by the House March 1, 2023.
Passed by the Senate April 12, 2023.
Approved by the Governor May 1, 2023.
Filed in Office of Secretary of State May 2, 2023.

CHAPTER 210

[Second Substitute House Bill 1452]

EMERGENCY MEDICAL RESERVE CORPS

AN ACT Relating to establishing a state medical reserve corps; adding a new chapter to Title 70 RCW; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** To protect the public peace, health, and safety, and to preserve the lives and property of the people of the state, it is hereby found and declared to be necessary to authorize the creation of a state emergency medical reserve corps to serve at the direction and control of the secretary in times of declared emergency and in times where no declared emergency exists but the protection of public health requires the state mobilization of resources to protect the health of the public, and to provide a means of compensating state emergency medical reserve corps members who may suffer any injury, as defined in this chapter, or death; who suffer economic harm including personal

property damage or loss; or who incur expenses for transportation, telephone or other methods of communication, and the use of personal supplies as a result of participation in state emergency medical reserve corps activities.

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

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

(2) "Emergency declaration" means a proclamation of a state of emergency issued by the governor under RCW 43.06.010.

(3) "Entity" means a person other than an individual.

(4) "Health practitioner" means an individual licensed under the laws of this state to provide health or veterinary services.

(5) "Health practitioner member" means a member who is a health practitioner.

(6) "Health services" means the provision of treatment, care, advice, guidance, or other services or supplies related to the health or death of individuals or human populations.

(7) "License" means authorization by a state to engage in services that are unlawful without the authorization.

(8) "Member" means a person who has registered with the state emergency medical reserve corps.

(9) "Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

(10) "Scope of practice" means the extent of the authorization to provide health or veterinary services granted to a health practitioner by a license issued to the practitioner in this state, including any conditions imposed by the licensing authority.

(11) "Secretary" means the secretary of the department of health.

(12) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(13) "State emergency medical reserve corps" means the group of members registered with the department and established by this chapter from which the secretary may deploy through an order.

(14) "Support member" means a member who does not hold a health practitioner license or who holds a health practitioner license but does not practice that profession during their service in the state emergency medical reserve corps.

(15) "Support services" means services provided by a member in support of the state emergency medical reserve corps, but does not include health services.

(16) "Veterinary services" means the provision of treatment, care, advice, guidance, or other services or supplies related to the health or death of an animal or to animal populations, to the extent necessary to respond to an emergency, including:

(a) Diagnosis, treatment, or prevention of an animal disease, injury, or other physical or mental condition by the prescription, administration, or dispensing of vaccine, medicine, surgery, or therapy;

(b) Use of a procedure for reproductive management; and

(c) Monitoring and treatment of animal populations for diseases that have spread or demonstrate the potential to spread to humans.

NEW SECTION. **Sec. 3.** (1) There is hereby established within the department a state emergency medical reserve corps, which shall serve at the direction and control of the secretary. The secretary may deploy the state emergency medical reserve corps by order as allowed for by this chapter.

(2) The secretary may:

(a) Enter into contracts and enter into and distribute grants on behalf of the department to carry out the purposes of this chapter; and

(b) Promulgate rules to implement this chapter.

NEW SECTION. **Sec. 4.** (1) This chapter applies to members registered with the department who provide health, veterinary, or support services while deployed with the state emergency medical reserve corps pursuant to an order of the secretary.

(2) The provisions of this chapter are in addition to and do not affect any program established by Title 38 RCW or chapter 70.15 RCW.

NEW SECTION. **Sec. 5.** (1) A person must apply to the department to register with the state emergency medical reserve corps.

(2) To qualify to register as a health practitioner member under this chapter, a person must pass a background check and be licensed and in good standing in this state.

(3) To qualify to register as a support member under this chapter, a person must pass a background check. If the person holds a professional license in this state other than a health practitioner license, that license must be in good standing.

(4) The department may by rule establish additional required qualifications for registration as a member.

NEW SECTION. **Sec. 6.** (1) The secretary may order the deployment of the state emergency medical reserve corps under any of the following circumstances:

(a) When the secretary determines that there exists a threat to the public health including, but not limited to, outbreaks of diseases, food poisoning, contaminated water supplies, and all other matters injurious to the public health;

(b) While an emergency declaration is in effect; or

(c) For training or exercises, or both.

(2) An order of the secretary deploying the state emergency medical reserve corps shall, at a minimum, include:

(a) The duration of the deployment, which the secretary may extend;

(b) The geographical areas in which members may provide services;

(c) Which members may participate in the deployment;

(d) Whether the members will receive compensation for their participation in the deployment and the amount of such compensation; and

(e) The services the members may provide.

(3) The secretary may include in the order any other matters necessary to effectively coordinate the provision of services or the training or exercises during the deployment.

(4) An order issued pursuant to subsection (1) or (2) of this section may take effect immediately, without prior notice or comment, and is not a rule within the meaning of the administrative procedure act, chapter 34.05 RCW.

(5) The secretary shall coordinate the deployment of the state emergency medical reserve corps with local health jurisdictions to ensure that local medical reserve corps members are not deployed away from local crises or emergencies that are happening concurrently to a state-declared emergency or threat.

NEW SECTION. **Sec. 7.** (1) For any deployment of the state emergency medical corps under this act, the department must track and account for any costs incurred as a direct result of the deployment, including but not limited to any compensation of members and any costs associated with the logistics of a deployment. Costs incurred as a direct result of a deployment must be borne in accordance with subsections (2) through (4) of this section.

(2) For any deployment under sections 6(1)(a) or 6(1)(b) of this act where the deployment has not been requested by a health care entity, the department may enter into a cost-sharing or billing agreement with a health care entity that is receiving services from the deployment. In the absence of a cost-sharing or billing agreement, the department must absorb the costs of the deployment.

(3) For any deployment under sections 6(1)(a) or 6(1)(b) of this act where the deployment has been requested by a health care entity, the department must charge the requesting health care entity.

(4) For any deployment under section 6(1)(c) of this act, or where payment is not charged or not received from the requesting health care entity under subsections (2) or (3) of this section, the department must absorb the costs of the deployment.

(5) The department may seek federal or private funding to support the costs of deployments of the state emergency medical corps under this act.

NEW SECTION. **Sec. 8.** A health practitioner member when serving with the state emergency medical reserve corps shall adhere to the scope of practice for the health practitioner's profession established by applicable law and subject to any restrictions imposed by the secretary.

NEW SECTION. **Sec. 9.** Health practitioners are subject to disciplinary action pursuant to the uniform disciplinary act, chapter 18.130 RCW, for conduct committed while deployed with the state emergency medical reserve corps, but disciplining authorities shall consider the circumstances in which the conduct took place, including any exigent circumstances, and the practitioner's scope of practice, education, training, experience, and specialized skill.

NEW SECTION. **Sec. 10.** (1) This chapter does not limit rights, privileges, or immunities provided to health practitioner members by laws other than this chapter.

(2) The department may, as allowed by law or government-to-government agreement, incorporate into the forces of emergency management personnel of this state emergency medical reserve corps members who are not officers or employees of this state, a political subdivision of this state, or a municipality or other local government within this state for the purpose of deployment to other jurisdictions.

(3) Except as otherwise provided in this chapter, members shall not be deemed or treated as employees of the state for the purpose of the state civil

service rules or for any other purpose solely by virtue of their status as a member of the state emergency medical reserve corps.

NEW SECTION. **Sec. 11.** (1) A member who dies or is injured as the result of providing services pursuant to this chapter is deemed to be an employee of this state for the purpose of receiving benefits for the death or injury under the workers' compensation law of this state, Title 51 RCW, if:

(a) The member is not otherwise eligible for such benefits for the injury or death under the law of this or another state; and

(b) The practitioner, or in the case of death the practitioner's personal representative, elects coverage under the workers' compensation law of this state, Title 51 RCW, by making a claim under that law.

(2) The department in consultation with the department of labor and industries may adopt rules, enter into agreements with other states, or take other measures to facilitate the receipt of benefits for injury or death under the workers' compensation law of this state, Title 51 RCW, by members who reside in other states, and may waive or modify requirements for filing, processing, and paying claims that unreasonably burden the practitioners.

(3) For the purposes of this section, "injury" means a physical or mental injury or disease for which an employee of this state who is injured or contracts the disease in the course of the employee's employment would be entitled to benefits under the workers' compensation law of this state, Title 51 RCW.

NEW SECTION. **Sec. 12.** No act or omission, except those acts or omissions constituting gross negligence or willful or wanton misconduct, by a member providing services reasonably within the provisions of this chapter and an order of the secretary issued pursuant to this chapter shall impose any liability for civil damages resulting from such an act or omission upon:

(1) The member;

(2) The supervisor or supervisors of the member;

(3) Any facility or their officers or employees;

(4) The employer of the member;

(5) The owner of the property or vehicle where the act or omission may have occurred;

(6) The state or any state or local governmental entity; or

(7) Any professional or trade association of the member.

NEW SECTION. **Sec. 13.** This act may be known and cited as the state emergency medical reserve corps act.

NEW SECTION. **Sec. 14.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. **Sec. 15.** Sections 1 through 14 of this act constitute a new chapter in Title 70 RCW.

Passed by the House March 1, 2023.

Passed by the Senate April 12, 2023.

Approved by the Governor May 1, 2023.

Filed in Office of Secretary of State May 2, 2023.

CHAPTER 211

[Engrossed Substitute House Bill 1466]

DENTAL HYGIENISTS—TEMPORARY LICENSES

AN ACT Relating to currently credentialed dental auxiliaries; and amending RCW 18.29.190.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 18.29.190 and 2019 c 111 s 3 are each amended to read as follows:

(1) The department shall issue an initial ((~~limited~~)) temporary license without the examination required by this chapter to any applicant who, as determined by the secretary:

(a) Holds a valid license in another state or Canadian province that allows a substantively equivalent scope of practice in subsection (3)(a) through (j) of this section;

(b) ((~~Is currently engaged in active practice in another state or Canadian province. For the purposes of this section, "active practice" means five hundred sixty hours of practice in the preceding twenty-four months;~~

~~(c)~~)) Files with the secretary documentation certifying that the applicant:

(i) Has graduated from an accredited dental hygiene school approved by the secretary;

(ii) Has successfully completed the dental hygiene national board examination; and

(iii) Is licensed to practice in another state or Canadian province;

(((~~(d)~~))) (c) Provides information as the secretary deems necessary pertaining to the conditions and criteria of the uniform disciplinary act, chapter 18.130 RCW;

(((~~(e)~~))) (d) Demonstrates to the secretary a knowledge of Washington state law pertaining to the practice of dental hygiene, including the administration of legend drugs; and

(((~~(f)~~))) (e) Pays any required fees((~~; and~~

~~(g) Meets requirements for AIDS education~~)).

(2) The term of the initial ((~~limited~~)) temporary license issued under this section is ((~~eighteen months~~)) five years and it is renewable upon:

(a) Demonstration of successful passage of a substantively equivalent dental hygiene patient evaluation/prophylaxis examination;

(b) Demonstration of successful passage of a substantively equivalent local anesthesia examination;

(c) Demonstration of didactic and clinical competency in the administration of nitrous oxide analgesia; and

(d) Demonstration of successful passage of an educational program on the administration of local anesthesia and nitrous oxide analgesia.

(3) A person practicing with an initial ((~~limited~~)) temporary license granted under this section has the authority to perform hygiene procedures that are limited to:

(a) Oral inspection and measuring of periodontal pockets;

(b) Patient education in oral hygiene;

(c) Taking intra-oral and extra-oral radiographs;

(d) Applying topical preventive or prophylactic agents;

(e) Polishing and smoothing restorations;

(f) Oral prophylaxis and removal of deposits and stains from the surface of the teeth;

(g) Recording health histories;

(h) Taking and recording blood pressure and vital signs;

(i) Performing subgingival and supragingival scaling; and

(j) Performing root planing.

(4)(a) A person practicing with an initial ((~~limited~~)) temporary license granted under this section may not perform the following dental hygiene procedures unless authorized in (b) or (c) of this subsection:

(i) Give injections of local anesthetic;

(ii) Place restorations into the cavity prepared by a licensed dentist and afterwards carve, contour, and adjust contacts and occlusion of the restoration;

(iii) Soft tissue curettage; or

(iv) Administer nitrous oxide/oxygen analgesia.

(b) A person licensed in another state or Canadian province who can demonstrate substantively equivalent licensing standards in the administration of local anesthetic may receive a temporary endorsement to administer local anesthesia. For purposes of the renewed ((~~limited~~)) temporary license, this endorsement demonstrates the successful passage of the local anesthesia examination.

(c) A person licensed in another state or Canadian province who can demonstrate substantively equivalent licensing standards in restorative procedures may receive a temporary endorsement for restorative procedures.

(d) A person licensed in another state or Canadian province who can demonstrate substantively equivalent licensing standards in administering nitrous oxide analgesia may receive a temporary endorsement to administer nitrous oxide analgesia.

(5)(a) A person practicing with a renewed ((~~limited~~)) temporary license granted under this section may:

(i) Perform hygiene procedures as provided under subsection (3) of this section;

(ii) Give injections of local anesthetic;

(iii) Perform soft tissue curettage; and

(iv) Administer nitrous oxide/oxygen analgesia.

(b) A person practicing with a renewed ((~~limited~~)) temporary license granted under this section may not place restorations into the cavity prepared by a licensed dentist and afterwards carve, contour, and adjust contacts and occlusion of the restoration.

(6) The secretary shall issue an initial temporary license to all dental hygienists with an active limited license as of the effective date of this section. The initial temporary license expires five years after the date the initial limited license was issued.

Passed by the House April 13, 2023.

Passed by the Senate April 11, 2023.

Approved by the Governor May 1, 2023.

Filed in Office of Secretary of State May 2, 2023.

CHAPTER 212

[House Bill 1512]

MISSING PERSONS TOOLKIT

AN ACT Relating to providing tools and resources for the location and recovery of missing persons; adding a new section to chapter 43.10 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** This act may be known and cited as the missing and murdered indigenous women and persons and Lucian act.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.10 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the office of the attorney general shall publish and maintain on its website a missing persons toolkit that contains regularly updated information related to locating and recovering missing persons.

(2) The missing persons toolkit must contain information and resources to help understand and engage with the process of reporting missing persons including, at minimum, the following:

(a) An explanation of how to report a missing person to an applicable law enforcement agency or other entity charged with receiving such reports;

(b) An overview of the kinds of information that may be helpful to provide when reporting a missing person;

(c) Additional steps that may be taken to assist with recovering a missing person after a report has been made;

(d) Suggestions and resources for navigating difficulties that are commonly encountered during the process of reporting and recovering a missing person, including a list of resources that may offer counseling and assistance to family members, friends, and community members of missing persons;

(e) Information, developed in consultation with the Washington state missing and murdered indigenous women and people task force, that is specifically tailored to reporting and recovering missing indigenous women and persons; and

(f) Information that is specifically tailored to reporting and recovering missing persons who are particularly vulnerable due to age, health, or mental or physical disability or condition.

(3) The office of the attorney general shall publish the missing persons toolkit in the top 10 languages spoken in Washington state and, at the discretion of the office of the attorney general, other languages.

(4) The office of the attorney general shall publish the missing persons toolkit in the following formats:

(a) A full digital version available on the office of the attorney general's website; and

(b) An abbreviated hard copy version made available to law enforcement agencies and any other relevant entities identified by the office of the attorney general, to be distributed by the applicable law enforcement agency or other entity when a person seeks to report a missing person.

(5) The office of the attorney general shall publish the first version of the missing persons toolkit in all formats specified under subsection (4) of this section by November 1, 2023, and, beginning in 2024, review the missing

persons toolkit annually and publish an updated version incorporating any relevant changes by November 1st of each year thereafter.

Passed by the House March 1, 2023.
Passed by the Senate April 12, 2023.
Approved by the Governor May 1, 2023.
Filed in Office of Secretary of State May 2, 2023.

CHAPTER 213

[Second Substitute House Bill 1534]
CONTRACTORS—CONSUMER PROTECTION

AN ACT Relating to strengthening protections for consumers in the construction industry; amending RCW 18.27.010, 18.27.030, 18.27.040, 18.27.340, 18.27.400, and 51.44.190; reenacting and amending RCW 43.79A.040; adding new sections to chapter 18.27 RCW; providing effective dates; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 18.27.010 and 2015 c 52 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)(a) "Contractor" includes any person, firm, corporation, or other entity who or which, in the pursuit of an independent business undertakes to, or offers to undertake, or submits a bid to, construct, alter, repair, add to, subtract from, improve, develop, move, wreck, or demolish any building, highway, road, railroad, excavation or other structure, project, development, or improvement attached to real estate or to do any part thereof including the installation of carpeting or other floor covering, the erection of scaffolding or other structures or works in connection therewith, the installation or repair of roofing or siding, performing tree removal services, or cabinet or similar installation; or, who, to do similar work upon his or her own property, employs members of more than one trade upon a single job or project or under a single building permit except as otherwise provided in this chapter.

(b) "Contractor" also includes a consultant acting as a general contractor.

(c) "Contractor" also includes any person, firm, corporation, or other entity covered by this subsection (1), whether or not registered as required under this chapter or who are otherwise required to be registered or licensed by law, who offer to sell their property without occupying or using the structures, projects, developments, or improvements for more than one year from the date the structure, project, development, or improvement was substantially completed or abandoned. A person, firm, corporation, or other entity is not a contractor under this subsection (1)(c) if the person, firm, corporation, or other entity contracts with a registered general contractor and does not superintend the work.

(2) "Department" means the department of labor and industries.

(3) "Director" means the director of the department of labor and industries or designated representative employed by the department.

(4) "Filing" means delivery of a document that is required to be filed with an agency to a place designated by the agency.

(5) "General contractor" means a contractor whose business operations require the use of more than one building trade or craft upon a single job or

project or under a single building permit. A general contractor also includes one who superintends, or consults on, in whole or in part, work falling within the definition of a contractor.

(6) "Notice of infraction" means a form used by the department to notify contractors that an infraction under this chapter has been filed against them.

(7) "Partnership" means a business formed under Title 25 RCW.

(8) "Registration cancellation" means a written notice from the department that a contractor's action is in violation of this chapter and that the contractor's registration has been revoked.

(9) "Registration suspension" means either an automatic suspension as provided in this chapter, or a written notice from the department that a contractor's action is a violation of this chapter and that the contractor's registration has been suspended for a specified time, or until the contractor shows evidence of compliance with this chapter.

(10) "Residential homeowner" means an individual person or persons owning or leasing real property:

(a) Upon which one single-family residence is to be built and in which the owner or lessee intends to reside upon completion of any construction; or

(b) Upon which there is a single-family residence to which improvements are to be made and in which the owner or lessee intends to reside upon completion of any construction.

(11) "Service," except as otherwise provided in RCW 18.27.225 and 18.27.370, means posting in the United States mail, properly addressed, postage prepaid, return receipt requested, or personal service. Service by mail is complete upon deposit in the United States mail to the last known address provided to the department.

(12) "Specialty contractor" means a contractor whose operations do not fall within the definition of "general contractor". A specialty contractor may only subcontract work that is incidental to the specialty contractor's work.

(13) "Substantial completion" means the same as "substantial completion of construction" in RCW 4.16.310.

(14) "Successor" means an applicant operating with all or part of the assets of another entity previously registered under this chapter, where the applicant is under substantially common ownership, management, or control of the other entity.

(15) "Unregistered contractor" means a person, firm, corporation, or other entity doing work as a contractor without being registered in compliance with this chapter. "Unregistered contractor" includes contractors whose registration is expired, revoked, or suspended. "Unregistered contractor" does not include a contractor who has maintained a valid bond and the insurance or assigned account required by RCW 18.27.050, and whose registration has lapsed for ((~~thirty~~)) 30 or fewer days.

(((~~(15)~~))) (16) "Unsatisfied final judgment" means a judgment or final tax warrant that has not been satisfied either through payment, court approved settlement, discharge in bankruptcy, or assignment under RCW 19.72.070.

(((~~(16)~~))) (17) "Verification" means the receipt and duplication by the city, town, or county of a contractor registration card that is current on its face, checking the department's contractor registration database, or calling the department to confirm that the contractor is registered.

Sec. 2. RCW 18.27.030 and 2008 c 120 s 1 are each amended to read as follows:

(1) An applicant for registration as a contractor shall submit an application under oath upon a form to be prescribed by the director and which shall include the following information pertaining to the applicant:

(a) Employer social security number or individual taxpayer identification number.

(b) Unified business identifier number.

(c) Evidence of workers' compensation coverage for the applicant's employees working in Washington, as follows:

(i) The applicant's industrial insurance account number issued by the department;

(ii) The applicant's self-insurer number issued by the department; or

(iii) For applicants domiciled in a state or province of Canada subject to an agreement entered into under RCW 51.12.120(7), as permitted by the agreement, filing a certificate of coverage issued by the agency that administers the workers' compensation law in the applicant's state or province of domicile certifying that the applicant has secured the payment of compensation under the other state's or province's workers' compensation law.

(d) Employment security department number.

(e) Unified business identifier (UBI) account number may be substituted for the information required by (c) and (d) of this subsection if the applicant will not employ employees in Washington.

(f) Type of contracting activity, whether a general or a specialty contractor and if the latter, the type of specialty.

(g) The name and address of each partner if the applicant is a firm or partnership, or the name and address of the owner if the applicant is an individual proprietorship, or the name and address of the corporate officers and statutory agent, if any, if the applicant is a corporation or the name and address of all members of other business entities. The information contained in such application is a matter of public record and open to public inspection.

(2) The department may verify the workers' compensation coverage information provided by the applicant under subsection (1)(c) of this section, including but not limited to information regarding the coverage of an individual employee of the applicant. If coverage is provided under the laws of another state, the department may notify the other state that the applicant is employing employees in Washington.

(3)(a) The department shall deny an application for registration if: (i) The applicant has been previously performing work subject to this chapter as a sole proprietor, partnership, corporation, or other entity and the department has notice that the applicant has an unsatisfied final judgment against him or her in an action based on work performed subject to this chapter or the applicant owes the department money for penalties assessed or fees due under this chapter as a result of a final judgment; (ii) the applicant was an owner, principal, or officer of a partnership, corporation, or other entity that either has an unsatisfied final judgment against it in an action that was incurred for work performed subject to this chapter or owes the department money for penalties assessed or fees due under this chapter as a result of a final judgment; (iii) the applicant is a successor to an entity with an unsatisfied final judgment against it in an action that was

incurred for work performed subject to this chapter or owes the department money for penalties assessed or fees due under this chapter as a result of a final judgment, except as provided under (d) of this subsection (3); (iv) the applicant does not have a valid unified business identifier number; (((~~(iv)~~))) (v) the department determines that the applicant has falsified information on the application, unless the error was inadvertent; ((~~or (v)~~)) (vi) the applicant does not have an active and valid certificate of registration with the department of revenue; or (vii) the applicant is under 18 years old at the time of application.

(b) The department shall suspend an active registration if (i) the department has determined that the registrant has an unsatisfied final judgment against it for work within the scope of this chapter; (ii) the department has determined that the registrant is a sole proprietor or an owner, principal, or officer of a registered contractor that has an unsatisfied final judgment against it for work within the scope of this chapter; (iii) the registrant does not maintain a valid unified business identifier number; (iv) the department has determined that the registrant falsified information on the application, unless the error was inadvertent; or (v) the registrant does not have an active and valid certificate of registration with the department of revenue.

(c) The department may suspend an active registration if the department has determined that an owner, principal, partner, or officer of the registrant was an owner, principal, or officer of a previous partnership, corporation, or other entity that has an unsatisfied final judgment against it.

(d) For the purposes of (a)(iii) of this subsection (3), it is presumed that an applicant knew or should have known of the relevant unsatisfied final judgment. If an applicant demonstrates by a preponderance of the evidence that the applicant did not know of the unsatisfied final judgment, by having exercised due diligence and timely verifying with the department that the other contractor was in good standing, then the department may grant the application for registration under this section, provided that the applicant meets applicable requirements under this chapter. The department shall adopt rules for the purposes of implementing this subsection (3)(d).

(4) The department shall not deny an application or suspend a registration because of an unsatisfied final judgment if the applicant's or registrant's unsatisfied final judgment was determined by the director to be the result of the fraud or negligence of another party, unless the applicant or registrant is a successor to said party under subsection (3)(a)(iii) of this section.

Sec. 3. RCW 18.27.040 and 2019 c 155 s 1 are each amended to read as follows:

(1) Each applicant shall file with the department a surety bond issued by a surety insurer who meets the requirements of chapter 48.28 RCW in the sum of ((~~twelve thousand dollars~~)) $30,000 if the applicant is a general contractor ((~~and six thousand dollars~~)) or $15,000 if the applicant is a specialty contractor. If no valid bond is already on file with the department at the time the application is filed, a bond must accompany the registration application. The bond shall have the state of Washington named as obligee with good and sufficient surety in a form to be approved by the department. The bond shall be continuous and may be canceled by the surety upon the surety giving written notice to the director. A cancellation or revocation of the bond or withdrawal of the surety from the bond automatically suspends the registration issued to the contractor until a new bond

or reinstatement notice has been filed and approved as provided in this section. The bond shall be conditioned that the applicant will pay all persons performing labor, including employee benefits, for the contractor, will pay all taxes and contributions due to the state of Washington, and will pay all persons furnishing material or renting or supplying equipment to the contractor and will pay all amounts that may be adjudged against the contractor by reason of breach of contract including improper work in the conduct of the contracting business. A change in the name of a business or a change in the type of business entity shall not impair a bond for the purposes of this section so long as one of the original applicants for such bond maintains partial ownership in the business covered by the bond.

(2) At the time of initial registration or renewal, the contractor shall provide a bond or other security deposit as required by this chapter and comply with all of the other provisions of this chapter before the department shall issue or renew the contractor's certificate of registration. Any contractor registered as of ((~~July 1, 2001~~)) June 30, 2024, who maintains that registration in accordance with this chapter is in compliance with this chapter until the next renewal of the contractor's certificate of registration.

(3) Any person, firm, or corporation having a claim against the contractor for any of the items referred to in this section may bring suit against the contractor and the bond or deposit in the superior court of the county in which the work was done or of any county in which jurisdiction of the contractor may be had. The surety issuing the bond shall be named as a party to any suit upon the bond. Action upon the bond or deposit brought by a residential homeowner for breach of contract by a party to the construction contract shall be commenced by filing the summons and complaint with the clerk of the appropriate superior court within two years from the date the claimed contract work was substantially completed or abandoned, whichever occurred first. Action upon the bond or deposit brought by any other authorized party shall be commenced by filing the summons and complaint with the clerk of the appropriate superior court within one year from the date the claimed labor was performed and benefits accrued, taxes and contributions owing the state of Washington became due, materials and equipment were furnished, or the claimed contract work was substantially completed or abandoned, whichever occurred first. Service of process in an action filed under this chapter against the contractor and the contractor's bond or the deposit shall be exclusively by service upon the department. Three copies of the summons and complaint and a fee adopted by rule of not less than ((~~fifty dollars~~)) $50 to cover the costs shall be served by registered or certified mail, or other delivery service requiring notice of receipt, upon the department at the time suit is started and the department shall maintain a record, available for public inspection, of all suits so commenced. Service is not complete until the department receives the fee and three copies of the summons and complaint. The service shall constitute service and confer personal jurisdiction on the contractor and the surety for suit on claimant's claim against the contractor and the bond or deposit and the department shall transmit the summons and complaint or a copy thereof to the contractor at the address listed in the contractor's application and to the surety within two days after it shall have been received.

(4) The surety upon the bond shall not be liable in an aggregate amount in excess of the amount named in the bond nor for any monetary penalty assessed

pursuant to this chapter for an infraction. The liability of the surety shall not cumulate where the bond has been renewed, continued, reinstated, reissued or otherwise extended. The surety upon the bond may, upon notice to the department and the parties, tender to the clerk of the court having jurisdiction of the action an amount equal to the claims thereunder or the amount of the bond less the amount of judgments, if any, previously satisfied therefrom and to the extent of such tender the surety upon the bond shall be exonerated but if the actions commenced and pending and provided to the department as required in subsection (3) of this section, at any one time exceed the amount of the bond then unimpaired, claims shall be satisfied from the bond in the following order:

(a) Employee labor and claims of laborers, including employee benefits;

(b) Claims for breach of contract by a party to the construction contract;

(c) Registered or licensed subcontractors, material, and equipment;

(d) Taxes and contributions due the state of Washington;

(e) Any court costs, interest, and attorneys' fees plaintiff may be entitled to recover. The surety is not liable for any amount in excess of the penal limit of its bond.

A payment made by the surety in good faith exonerates the bond to the extent of any payment made by the surety.

(5) The total amount paid from a bond or deposit ((~~required of a general contractor by this section~~)) to claimants other than residential homeowners must not exceed one-half of the bond ((~~amount. The total amount paid from a bond or deposit required of a specialty contractor by this section to claimants other than residential homeowners must not exceed one-half of the bond amount or four thousand dollars, whichever is greater~~)) or deposit.

(6) The prevailing party in an action filed under this section against the contractor and contractor's bond or deposit, for breach of contract by a party to the construction contract involving a residential homeowner, is entitled to costs, interest, and reasonable attorneys' fees. The surety upon the bond or deposit is not liable in an aggregate amount in excess of the amount named in the bond or deposit nor for any monetary penalty assessed pursuant to this chapter for an infraction.

(7) If a final judgment impairs the liability of the surety upon the bond or deposit so furnished that there is not in effect a bond or deposit in the full amount prescribed in this section, the registration of the contractor is automatically suspended until the bond or deposit liability in the required amount unimpaired by unsatisfied judgment claims is furnished.

(8) In lieu of the surety bond required by this section the contractor may file with the department an assigned savings account, upon forms provided by the department.

(9) Any person having filed and served a summons and complaint as required by this section having an unsatisfied final judgment against the registrant for any items referred to in this section may execute upon the security held by the department by serving a certified copy of the unsatisfied final judgment by registered or certified mail upon the department within one year of the date of entry of such judgment. Upon the receipt of service of such certified copy the department shall pay or order paid from the deposit, through the registry of the superior court which rendered judgment, towards the amount of the unsatisfied judgment. The priority of payment by the department shall be the

order of receipt by the department, but the department shall have no liability for payment in excess of the amount of the deposit.

(10) Within ((~~ten~~)) 10 days after resolution of the case, a certified copy of the final judgment and order, or any settlement documents where a case is not disposed of by a court trial, a certified copy of the dispositive settlement documents must be provided to the department by the prevailing party. Failure to provide a copy of the final judgment and order or the dispositive settlement documents to the department within ((~~ten~~)) 10 days of entry of such an order constitutes a violation of this chapter and a penalty adopted by rule of not less than ((~~two hundred fifty dollars~~)) $250 may be assessed against the prevailing party.

(11) The director may require an applicant applying to renew or reinstate a registration or applying for a new registration to file a bond of up to three times the normally required amount, if the director determines that an applicant, or a previous registration of a corporate officer, owner, or partner of a current applicant, has had in the past five years one final judgment in actions under this chapter involving a residential single-family dwelling.

(12) The director may adopt rules necessary for the proper administration of the security.

(((~~(13)(a) The department must convene a work group no later than August 1, 2019, to consider additional safeguards for consumers who engage contractors. The department must provide staff support for the work group and include in the work group: Department staff; large and small contractors that primarily contract with residential homeowners, those that build new and rehabilitate residences, and other interested contractors; surety bond companies; realtors or their representatives; workers and/or their representatives; representatives from the consumer protection division of the office of the attorney general; consumers and/or advocates representing them; and local building officials.~~

~~The work group shall submit a report with recommendations to the department and, if applicable, the appropriate committees of the legislature by June 30, 2020. The report must address whether:~~

~~(i) Bond amounts are sufficient and appropriate to protect consumers, workers, and suppliers and meet tax obligations;~~

~~(ii) Additional criteria for contractors would provide a greater level of protection;~~

~~(iii) Strategies to discourage the transfer of a business to a different entity for the purpose of evading penalties or judgments under this chapter should be implemented;~~

~~(iv) Any other registration requirements or options for consumer recovery under this chapter should be changed to increase protections for consumers; and~~

~~(v) Incentives to adopt industry best practices would increase consumer protections.~~

~~(b) The work group must dissolve once the report is submitted.~~))

Sec. 4. RCW 18.27.340 and 1997 c 314 s 17 are each amended to read as follows:

(1) Except as otherwise provided in subsection (3) of this section, a contractor found to have committed an infraction under RCW 18.27.200 shall be

assessed a monetary penalty of not less than ((~~two hundred dollars~~)) $200 and not more than ((~~five thousand dollars~~)) $10,000.

(2) The director may waive collection in favor of payment of restitution to a consumer complainant.

(3) A contractor found to have committed an infraction under RCW 18.27.200 for failure to register shall be assessed a fine of not less than ((~~one thousand dollars~~)) $1,200, nor more than ((~~five thousand dollars~~)) $10,000. The director may reduce the penalty for failure to register, but in no case below ((~~five hundred dollars~~)) $600, if the person becomes registered within ((~~ten~~)) 10 days of receiving a notice of infraction and the notice of infraction is for a first offense.

(4) Monetary penalties collected under this ((~~chapter~~)) section shall be deposited in the ((~~general fund~~)) homeowner recovery account under section 7 of this act.

Sec. 5. RCW 18.27.400 and 2017 3rd sp.s. c 11 s 1 are each amended to read as follows:

All moneys, except fines and penalties, received or collected under the terms of this chapter must be deposited into the construction registration inspection account. All fines and penalties received or collected under the terms of this chapter shall be deposited in the ((~~general fund~~)) homeowner recovery account under section 7 of this act.

NEW SECTION. **Sec. 6.** A new section is added to chapter 18.27 RCW to read as follows:

(1) Subject to the availability of funds appropriated for this purpose, the homeowner recovery program is created and administered by the department. The department shall have such rule-making authority as the department deems necessary to administer the program.

(2)(a) Beginning July 1, 2026, a person is eligible to recover from the homeowner recovery program, provided that each of the following conditions is satisfied:

(i) The person is a claimant with a final judgment in a court of competent jurisdiction against a registered contractor for a claim brought under RCW 18.27.040(3) on his or her primary residence. For purposes of a claim brought on a multifamily dwelling consisting of more than one unit, only the unit in which the claimant actually resides is considered the claimant's primary residence;

(ii) The judgment specifies the actual damages suffered as a consequence of such a claim;

(iii) The claimant has proceeded against any existing bond covering the contractor;

(iv) The judgment has not been satisfied in full; and

(v) An application for recovery under (b) of this subsection is made within 90 days after the conclusion of the civil action brought under RCW 18.27.040(3).

(b) The department shall publish a form on its website for claimants to apply for payment from the account under this section. The department may determine by rule additional documentation required to complete an application under this section.

(3)(a) The priority of payment for eligible applicants must be by the order of receipt by the department, subject to the limitations in this subsection (3). Payment for an eligible application must be to the full extent of eligibility, without proration, before consideration of payment for a subsequent application in the order of receipt. Determinations regarding payments must be made by the department in its sole discretion.

(b) Payment from the account is limited to actual damages awarded in a final judgment, after recovery against the bond, for a claim brought under RCW 18.27.040(3). Payment from the account for other costs related to or pursuant to civil proceedings, such as attorneys' fees, court costs, or punitive damages, is prohibited.

(c) Payment from the account may not exceed $25,000 per contractor per parcel, or the amount unpaid on the judgment, whichever is less.

(d)(i) Total payments under the homeowner recovery program for a fiscal year may not be greater than 80 percent of the account balance calculated at the end of the previous fiscal year.

(ii) The department shall create and maintain a waitlist for any eligible applications unpaid due to an insufficient account balance under (d)(i) of this subsection. The waitlist must preserve the order of receipt in accordance with (a) of this subsection.

(e) Eligibility for payment under subsection (2) of this section does not create a right to payment under this section. Payments under this section are discretionary. This section does not create an entitlement to payment or services. This section does not create a right of action.

(f) The department is not criminally or civilly liable and may not have any penalty or cause of action of any nature arise against it regarding the provision or lack of provision of funds for payments under this section.

(4)(a) At the time of payment from the account under this section, the claimant shall assign his or her right, title, and interest in any final judgment on his or her claim against the contractor to the department to the extent of such payment. The department shall be subrogated to the right, title, and interest of the claimant, and may pursue an insurer or other third party to recover amounts paid from the account. Any amount subsequently recovered on the judgment must be for the purpose of reimbursing the account.

(b) A claimant in receipt of payment from the account pursuant to an application under this section is prohibited from pursuing collection, or authorizing another entity to pursue collection on the claimant's behalf, of the damages attributable to the same claims to the extent of such payment.

(c) Upon any payment from the account, the department shall notify the contractor that a payment has been made and the claimant has made an assignment under this section. The department shall include any additional information about the process for reimbursing the account under subsection (5) of this section.

(5)(a) The department may pursue reimbursement to the account from the contractor for the amount paid from the account, as well as interest on that amount, in accordance with rules adopted by the department. The department may establish reimbursement payment plans up to 36 months. Any payment plan longer than 12 months must assess interest as provided in RCW 43.17.240. The department must deposit all moneys recovered in the account.

(b) Where a contractor defaults in payment of reimbursement, collection of amounts will be handled pursuant to the procedures in RCW 49.48.086.

(c) The department's duties with respect to obtaining reimbursement from the contractor to the account are limited to those specified within this subsection (5).

(6) Nothing contained herein limits the authority of the department to take action against a contractor for a violation under this chapter or the rules promulgated thereunder; nor does the reimbursement in full of all obligations to the account by a contractor effect any enforcement of a violation under this chapter or the rules promulgated thereunder.

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

(a) "Account" means the homeowner recovery account created in section 7 of this act.

(b) "Claimant" means the owner of an owner-occupied residential property in the state.

(c) "Residential property" means a single-family dwelling, or a multifamily dwelling consisting of four or fewer units, but does not include a condominium.

NEW SECTION. **Sec. 7.** A new section is added to chapter 18.27 RCW to read as follows:

The homeowner recovery account is created in the custody of the state treasurer. All repayments under section 6 of this act, private contributions, and other moneys transferred or directed to the account must be deposited into the account. Expenditures from the account may only be used for the homeowner recovery program to satisfy unpaid judgments for eligible claims under section 6 of this act. Administrative costs of the program may not be paid from the account. Only the director or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. **Sec. 8.** A new section is added to chapter 18.27 RCW to read as follows:

(1) By December 1st of each year through 2034, the department must submit an annual report to the appropriate committees of the legislature, in accordance with RCW 43.01.036, on the homeowner recovery program under section 6 of this act, including the following information for the previous fiscal year:

(a) The applications made under the program, including data as to claim amounts;

(b) The payments made under the program;

(c) The status of any waitlist;

(d) The status and solvency of the homeowner recovery account under section 7 of this act; and

(e) Recommendations for any changes to the program, if deemed necessary by the department.

(2) By December 1, 2035, and each year thereafter, the department shall notify the appropriate committees of the legislature, by submitting a report in accordance with RCW 43.01.036, if the department finds there is a significant

waitlist of eligible applicants or otherwise finds there is insufficient funds in the homeowner recovery account to sustain the homeowner recovery program.

Sec. 9. RCW 43.79A.040 and 2022 c 244 s 3, 2022 c 206 s 8, 2022 c 183 s 16, and 2022 c 162 s 6 are each reenacted and amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury, and may be commingled with moneys in the state treasury for cash management and cash balance purposes.

(2) All income received from investment of the treasurer's trust fund must be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments must occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer must distribute the earnings credited to the investment income account to the state general fund except under (b), (c), and (d) of this subsection.

(b) The following accounts and funds must receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The 24/7 sobriety account, the Washington promise scholarship account, the Gina Grant Bull memorial legislative page scholarship account, the Rosa Franklin legislative internship program scholarship account, the Washington advanced college tuition payment program account, the Washington college savings program account, the accessible communities account, the Washington achieving a better life experience program account, the Washington career and college pathways innovation challenge program account, the community and technical college innovation account, the agricultural local fund, the American Indian scholarship endowment fund, the behavioral health loan repayment program account, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the county ((~~enhanced~~)) 911 excise tax account, the county road administration board emergency loan account, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the energy facility site evaluation council account, the fair fund, the family and medical leave insurance account, the fish and wildlife federal lands revolving account, the natural resources federal lands revolving account, the food animal veterinarian conditional scholarship account, the forest health revolving account, the fruit and vegetable inspection account, the educator conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the Washington global health technologies and product development account, the grain inspection revolving fund, the Washington history day account, the industrial insurance rainy day fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters'

plan 2 expense fund, the local tourism promotion account, the low-income home rehabilitation revolving loan program account, the homeowner recovery account, the multiagency permitting team account, the northeast Washington wolf-livestock management account, the produce railcar pool account, the public use general aviation airport loan revolving account, the regional transportation investment district account, the rural rehabilitation account, the Washington sexual assault kit account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account, the life sciences discovery fund, the Washington state library-archives building account, the reduced cigarette ignition propensity account, the center for deaf and hard of hearing youth account, the school for the blind account, the Millersylvania park trust fund, the public employees' and retirees' insurance reserve fund, the school employees' benefits board insurance reserve fund, the public employees' and retirees' insurance account, the school employees' insurance account, the long-term services and supports trust account, the radiation perpetual maintenance fund, the Indian health improvement reinvestment account, the department of licensing tuition recovery trust fund, the student achievement council tuition recovery trust fund, the tuition recovery trust fund, the Washington student loan account, the industrial insurance premium refund account, the mobile home park relocation fund, the natural resources deposit fund, the Washington state health insurance pool account, the federal forest revolving account, and the library operations account.

(c) The following accounts and funds must receive 80 percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advance right-of-way revolving fund, the advanced environmental mitigation revolving account, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(d) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the custody of the state treasurer that deposits funds into a fund or account in the custody of the state treasurer pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Sec. 10. RCW 51.44.190 and 2017 3rd sp.s. c 11 s 4 are each amended to read as follows:

(1) The construction registration inspection account is created in the state treasury. All moneys, except fines and penalties, received or collected under the terms of chapters 18.27 and 70.87 RCW and under the terms of RCW 43.22.335 through 43.22.430 and 43.22.432 through 43.22.495 must be deposited into the account. Moneys in the account may only be spent after appropriation.

Expenditures from the account, not including moneys transferred to the general fund, may be used only to carry out the purposes of chapters 18.27 and 70.87 RCW and RCW 43.22.335 through 43.22.430 and 43.22.432 through 43.22.495.

(2) The department shall set the fees deposited in the account at a level that generates revenue that is as near as practicable to the amount of the appropriation to carry out the duties specified in this section.

(3) ((~~Until June 30, 2023, on~~)) On the last working day of the first month following each quarterly period, ((~~seven~~)) three and one-half percent of all revenues received into the account during the previous quarter from licenses, permits, and registrations, net of refunds paid to customers, must be transferred into the general fund.

NEW SECTION. **Sec. 11.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 12.** Sections 3 through 9 of this act take effect July 1, 2024.

NEW SECTION. **Sec. 13.** Section 10 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect June 30, 2023.

Passed by the House April 13, 2023.
Passed by the Senate April 11, 2023.
Approved by the Governor May 1, 2023.
Filed in Office of Secretary of State May 2, 2023.

CHAPTER 214

[Engrossed House Bill 1636]

COMMON INTEREST COMMUNITIES—PAST-DUE ASSESSMENTS—FORECLOSURES

AN ACT Relating to foreclosure protections for homeowners in common interest communities; amending RCW 64.32.200, 64.32.200, 64.34.364, 64.34.364, 64.38.100, 64.38.100, 64.90.485, and 64.90.485; amending 2021 c 222 ss 9 and 10 (uncodified); providing an effective date; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 64.32.200 and 2021 c 222 s 3 are each amended to read as follows:

(1) The declaration may provide for the collection of all sums assessed by the association of apartment owners for the share of the common expenses chargeable to any apartment and the collection may be enforced in any manner provided in the declaration including, but not limited to, (a) ((~~ten~~)) 10 days notice shall be given the delinquent apartment owner to the effect that unless such assessment is paid within ((~~ten~~)) 10 days any or all utility services will be forthwith severed and shall remain severed until such assessment is paid, or (b) collection of such assessment may be made by such lawful method of enforcement, judicial or extra-judicial, as may be provided in the declaration and/or bylaws.

(2) All sums assessed by the association of apartment owners but unpaid for the share of the common expenses chargeable to any apartment shall constitute a

lien on such apartment prior to all other liens except only (a) tax liens on the apartment in favor of any assessing unit and/or special district, and (b) all sums unpaid on all mortgages of record. Such lien is not subject to the ban against execution or forced sales of homesteads under RCW 6.13.080 and, subject to the provisions in subsection (((~~(4)~~))) (5) of this section, may be foreclosed by suit by the manager or board of directors, acting on behalf of the apartment owners, in like manner as a mortgage of real property. In any such foreclosure the apartment owner shall be required to pay a reasonable rental for the apartment, if so provided in the bylaws, and the plaintiff in such foreclosures shall be entitled to the appointment of a receiver to collect the same. The manager or board of directors, acting on behalf of the apartment owners, shall have power, unless prohibited by the declaration, to bid on the apartment at foreclosure sale, and to acquire and hold, lease, mortgage, and convey the same. Upon an express waiver in the complaint of any right to a deficiency judgment, the period of redemption shall be eight months after the sale. Suit to recover any judgment for any unpaid common expenses shall be maintainable without foreclosing or waiving the liens securing the same.

(3) Where the mortgagee of a mortgage of record or other purchaser of an apartment obtains possession of the apartment as a result of foreclosure of the mortgage, such possessor, his or her successors and assigns shall not be liable for the share of the common expenses or assessments by the association of apartment owners chargeable to such apartment which became due prior to such possession. Such unpaid share of common expenses of assessments shall be deemed to be common expenses collectible from all of the apartment owners including such possessor, his or her successors and assigns.

(4)(a) When the association, or the manager or board of directors on its behalf, mails to the apartment owner by first-class mail the first notice of delinquency for past due assessments to the apartment address and to any other address that the owner has provided to the association, the association shall include a first preforeclosure notice that states as follows:

THIS IS A NOTICE OF DELINQUENCY FOR PAST DUE ASSESSMENTS
FROM THE APARTMENT OWNERS' ASSOCIATION TO WHICH YOUR HOME BELONGS.
THIS NOTICE IS ONE STEP IN A PROCESS THAT COULD RESULT IN YOUR LOSING YOUR HOME.
CONTACT A HOUSING COUNSELOR OR AN ATTORNEY LICENSED IN WASHINGTON NOW to assess your situation and refer you to mediation if you might benefit. **DO NOT DELAY.**
BE CAREFUL of people who claim they can help you. There are many individuals and businesses that prey upon borrowers in distress.
REFER TO THE CONTACTS BELOW for sources of assistance.

SEEKING ASSISTANCE

Housing counselors and legal assistance may be available at little or no cost to you. If you would like assistance in determining your rights and opportunities to keep your house, you may contact the following:

The statewide foreclosure hotline for assistance and referral to housing counselors recommended by the Housing Finance Commission

Telephone: . . . . . Website: . . . . . .

The United States Department of Housing and Urban Development

Telephone: . . . . . Website: . . . . . .

The statewide civil legal aid hotline for assistance and referrals to other housing counselors and attorneys

Telephone: . . . . . Website: . . . . . .

The association shall obtain the toll-free numbers and website information from the department of commerce for inclusion in the notice.

(b) If, when a delinquent account is referred to an association's attorney, the first preforeclosure notice required under (a) of this subsection has not yet been mailed to the apartment owner, the association or the association's attorney shall mail the first preforeclosure notice to the apartment owner in order to satisfy the requirement in (a) of this subsection.

(c) Mailing the first preforeclosure notice pursuant to (a) of this subsection does not satisfy the requirement in subsection (5)(b) of this section to mail a second preforeclosure notice at or after the date that assessments have become past due for at least 90 days. The second preforeclosure notice may not be mailed sooner than 60 days after the first preforeclosure notice is mailed.

(5) An association, or the manager or board of directors on its behalf, may not commence an action to foreclose a lien on an apartment under this section unless:

(a) The apartment owner, at the time the action is commenced, owes at least a sum equal to the greater of:

(i) Three months or more of assessments, not including fines, late charges, interest, attorneys' fees, or costs incurred by the association in connection with the collection of a delinquent owner's account; or

(ii) ((~~$200~~)) $2,000 of assessments, not including fines, late charges, interest, attorneys' fees, or costs incurred by the association in connection with the collection of a delinquent owner's account;

(b) At or after the date that assessments have become past due for at least 90 days, but no sooner than 60 days after the first preforeclosure notice required in subsection (4)(a) of this section is mailed, the association has mailed, by first-class mail, to the owner, at the apartment address and to any other address which the owner has provided to the association, a second notice of delinquency, which ((~~shall state as follows:~~

~~**THIS IS A NOTICE OF DELINQUENCY FOR PAST DUE ASSESSMENTS**~~

~~**FROM THE APARTMENT OWNERS' ASSOCIATION TO WHICH YOUR HOME BELONGS.**~~

~~**THIS NOTICE IS ONE STEP IN A PROCESS THAT COULD RESULT IN YOUR LOSING YOUR HOME.**~~

~~**CONTACT A HOUSING COUNSELOR OR AN ATTORNEY LICENSED IN WASHINGTON NOW** to assess your situation and refer you to mediation if you might benefit. **DO NOT DELAY.**~~

~~**BE CAREFUL** of people who claim they can help you. There are many individuals and businesses that prey upon borrowers in distress.~~

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~~Telephone: . . . . . Website: . . . . . .~~

~~The association shall obtain the toll-free numbers and website information from the department of commerce for inclusion in the notice~~)) must include a second preforeclosure notice that contains the same information as the first preforeclosure notice provided to the apartment owner pursuant to subsection (4)(a) of this section. The second preforeclosure notice may not be mailed sooner than 60 days after the first preforeclosure notice required in subsection (4)(a) of this section is mailed;

(c) At least 180 days have elapsed from the date the minimum amount required in (a) of this subsection has accrued; and

(d) The board approves commencement of a foreclosure action specifically against that apartment.

(((~~(5)~~))) (6) Every aspect of a collection, foreclosure, sale, or other conveyance under this section, including the method, advertising, time, date, place, and terms, must be commercially reasonable.

Sec. 2. RCW 64.32.200 and 2021 c 222 s 4 are each amended to read as follows:

(1) The declaration may provide for the collection of all sums assessed by the association of apartment owners for the share of the common expenses chargeable to any apartment and the collection may be enforced in any manner provided in the declaration including, but not limited to, (a) ((~~ten~~)) 10 days notice shall be given the delinquent apartment owner to the effect that unless such assessment is paid within ((~~ten~~)) 10 days any or all utility services will be forthwith severed and shall remain severed until such assessment is paid, or (b) collection of such assessment may be made by such lawful method of enforcement, judicial or extra-judicial, as may be provided in the declaration and/or bylaws.

(2) All sums assessed by the association of apartment owners but unpaid for the share of the common expenses chargeable to any apartment shall constitute a lien on such apartment prior to all other liens except only (a) tax liens on the apartment in favor of any assessing unit and/or special district, and (b) all sums unpaid on all mortgages of record. Such lien is not subject to the ban against execution or forced sales of homesteads under RCW 6.13.080 and, subject to the provisions in subsection (((~~(4)~~))) (5) of this section, may be foreclosed by suit by the manager or board of directors, acting on behalf of the apartment owners, in like manner as a mortgage of real property. In any such foreclosure the

apartment owner shall be required to pay a reasonable rental for the apartment, if so provided in the bylaws, and the plaintiff in such foreclosures shall be entitled to the appointment of a receiver to collect the same. The manager or board of directors, acting on behalf of the apartment owners, shall have power, unless prohibited by the declaration, to bid on the apartment at foreclosure sale, and to acquire and hold, lease, mortgage, and convey the same. Upon an express waiver in the complaint of any right to a deficiency judgment, the period of redemption shall be eight months after the sale. Suit to recover any judgment for any unpaid common expenses shall be maintainable without foreclosing or waiving the liens securing the same.

(3) Where the mortgagee of a mortgage of record or other purchaser of an apartment obtains possession of the apartment as a result of foreclosure of the mortgage, such possessor, his or her successors and assigns shall not be liable for the share of the common expenses or assessments by the association of apartment owners chargeable to such apartment which became due prior to such possession. Such unpaid share of common expenses of assessments shall be deemed to be common expenses collectible from all of the apartment owners including such possessor, his or her successors and assigns.

(4)(a) When the association, or the manager or board of directors on its behalf, mails to the apartment owner by first-class mail the first notice of delinquency for past due assessments to the apartment address and to any other address that the owner has provided to the association, the association shall include a first preforeclosure notice that states as follows:

THIS IS A NOTICE OF DELINQUENCY FOR PAST DUE ASSESSMENTS
FROM THE APARTMENT OWNERS' ASSOCIATION TO WHICH YOUR HOME BELONGS.
THIS NOTICE IS ONE STEP IN A PROCESS THAT COULD RESULT IN YOUR LOSING YOUR HOME.
CONTACT A HOUSING COUNSELOR OR AN ATTORNEY LICENSED IN WASHINGTON NOW to assess your situation and refer you to mediation if you might benefit. **DO NOT DELAY.**
BE CAREFUL of people who claim they can help you. There are many individuals and businesses that prey upon borrowers in distress.
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Telephone: . . . . . Website: . . . . . .

The association shall obtain the toll-free numbers and website information from the department of commerce for inclusion in the notice.

(b) If, when a delinquent account is referred to an association's attorney, the first preforeclosure notice required under (a) of this subsection has not yet been mailed to the apartment owner, the association or the association's attorney shall mail the first preforeclosure notice to the apartment owner in order to satisfy the requirement in (a) of this subsection.

(c) Mailing the first preforeclosure notice pursuant to (a) of this subsection does not satisfy the requirement in subsection (5)(b) of this section to mail a second preforeclosure notice at or after the date that assessments have become past due for at least 90 days. The second preforeclosure notice may not be mailed sooner than 60 days after the first preforeclosure notice is mailed.

(5) An association, or the manager or board of directors on its behalf, may not commence an action to foreclose a lien on an apartment under this section unless:

(a) The apartment owner, at the time the action is commenced, owes at least a sum equal to the greater of:

(i) Three months or more of assessments, not including fines, late charges, interest, attorneys' fees, or costs incurred by the association in connection with the collection of a delinquent owner's account; or

(ii) ((~~$200~~)) $2,000 of assessments, not including fines, late charges, interest, attorneys' fees, or costs incurred by the association in connection with the collection of a delinquent owner's account;

(b) At or after the date that assessments have become past due for at least 90 days, but no sooner than 60 days after the first preforeclosure notice required in subsection (4)(a) of this section is mailed, the association has mailed, by first-class mail, to the owner, at the apartment address and to any other address which the owner has provided to the association, a second notice of delinquency, which ((~~shall state as follows:~~

~~**THIS IS A NOTICE OF DELINQUENCY FOR PAST DUE ASSESSMENTS**~~

~~**FROM THE APARTMENT OWNERS' ASSOCIATION TO WHICH YOUR HOME BELONGS.**~~

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~~Telephone: . . . . . Website: . . . . . .~~

~~The association shall obtain the toll-free numbers and website information from the department of commerce for inclusion in the notice~~)) must include a second preforeclosure notice that contains the same information as the first preforeclosure notice provided to the apartment owner pursuant to subsection (4)(a) of this section. The second preforeclosure notice may not be mailed sooner than 60 days after the first preforeclosure notice required in subsection (4)(a) of this section is mailed;

(c) At least 90 days have elapsed from the date the minimum amount required in (a) of this subsection has accrued; and

(d) The board approves commencement of a foreclosure action specifically against that apartment.

((~~(5)~~)) (6) Every aspect of a collection, foreclosure, sale, or other conveyance under this section, including the method, advertising, time, date, place, and terms, must be commercially reasonable.

Sec. 3. RCW 64.34.364 and 2021 c 222 s 5 are each amended to read as follows:

(1) The association has a lien on a unit for any unpaid assessments levied against a unit from the time the assessment is due.

(2) A lien under this section shall be prior to all other liens and encumbrances on a unit except: (a) Liens and encumbrances recorded before the recording of the declaration; (b) a mortgage on the unit recorded before the date on which the assessment sought to be enforced became delinquent; and (c) liens for real property taxes and other governmental assessments or charges against the unit. A lien under this section is not subject to the provisions of chapter 6.13 RCW.

(3) Except as provided in subsections (4) and (5) of this section, the lien shall also be prior to the mortgages described in subsection (2)(b) of this section to the extent of assessments for common expenses, excluding any amounts for capital improvements, based on the periodic budget adopted by the association pursuant to RCW 64.34.360(1) which would have become due during the six months immediately preceding the date of a sheriff's sale in an action for judicial foreclosure by either the association or a mortgagee, the date of a trustee's sale in a nonjudicial foreclosure by a mortgagee, or the date of recording of the declaration of forfeiture in a proceeding by the vendor under a real estate contract.

(4) The priority of the association's lien against units encumbered by a mortgage held by an eligible mortgagee or by a mortgagee which has given the association a written request for a notice of delinquent assessments shall be reduced by up to three months if and to the extent that the lien priority under subsection (3) of this section includes delinquencies which relate to a period after such holder becomes an eligible mortgagee or has given such notice and before the association gives the holder a written notice of the delinquency. This

subsection does not affect the priority of mechanics' or material suppliers' liens, or the priority of liens for other assessments made by the association.

(5) If the association forecloses its lien under this section nonjudicially pursuant to chapter 61.24 RCW, as provided by subsection (9) of this section, the association shall not be entitled to the lien priority provided for under subsection (3) of this section.

(6) Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same real estate, those liens have equal priority.

(7) Recording of the declaration constitutes record notice and perfection of the lien for assessments. While no further recording of any claim of lien for assessment under this section shall be required to perfect the association's lien, the association may record a notice of claim of lien for assessments under this section in the real property records of any county in which the condominium is located. Such recording shall not constitute the written notice of delinquency to a mortgagee referred to in subsection (2) of this section.

(8) A lien for unpaid assessments and the personal liability for payment of assessments is extinguished unless proceedings to enforce the lien or collect the debt are instituted within three years after the amount of the assessments sought to be recovered becomes due.

(9) The lien arising under this section may be enforced judicially by the association or its authorized representative in the manner set forth in chapter 61.12 RCW. The lien arising under this section may be enforced nonjudicially in the manner set forth in chapter 61.24 RCW for nonjudicial foreclosure of deeds of trust if the declaration (a) contains a grant of the condominium in trust to a trustee qualified under RCW 61.24.010 to secure the obligations of the unit owners to the association for the payment of assessments, (b) contains a power of sale, (c) provides in its terms that the units are not used principally for agricultural or farming purposes, and (d) provides that the power of sale is operative in the case of a default in the obligation to pay assessments. The association or its authorized representative shall have the power, unless prohibited by the declaration, to purchase the unit at the foreclosure sale and to acquire, hold, lease, mortgage, or convey the same. Upon an express waiver in the complaint of any right to a deficiency judgment in a judicial foreclosure action, the period of redemption shall be eight months. Nothing in this section shall prohibit an association from taking a deed in lieu of foreclosure.

(10) From the time of commencement of an action by the association to foreclose a lien for nonpayment of delinquent assessments against a unit that is not occupied by the owner thereof, the association shall be entitled to the appointment of a receiver to collect from the lessee thereof the rent for the unit as and when due. If the rental is not paid, the receiver may obtain possession of the unit, refurbish it for rental up to a reasonable standard for rental units in this type of condominium, rent the unit or permit its rental to others, and apply the rents first to the cost of the receivership and attorneys' fees thereof, then to the cost of refurbishing the unit, then to applicable charges, then to costs, fees, and charges of the foreclosure action, and then to the payment of the delinquent assessments. Only a receiver may take possession and collect rents under this subsection, and a receiver shall not be appointed less than ((~~ninety~~)) 90 days

after the delinquency. The exercise by the association of the foregoing rights shall not affect the priority of preexisting liens on the unit.

(11) Except as provided in subsection (3) of this section, the holder of a mortgage or other purchaser of a unit who obtains the right of possession of the unit through foreclosure shall not be liable for assessments or installments thereof that became due prior to such right of possession. Such unpaid assessments shall be deemed to be common expenses collectible from all the unit owners, including such mortgagee or other purchaser of the unit. Foreclosure of a mortgage does not relieve the prior owner of personal liability for assessments accruing against the unit prior to the date of such sale as provided in this subsection.

(12) In addition to constituting a lien on the unit, each assessment shall be the joint and several obligation of the owner or owners of the unit to which the same are assessed as of the time the assessment is due. In a voluntary conveyance, the grantee of a unit shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor up to the time of the grantor's conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. Suit to recover a personal judgment for any delinquent assessment shall be maintainable in any court of competent jurisdiction without foreclosing or waiving the lien securing such sums.

(13) The association may from time to time establish reasonable late charges and a rate of interest to be charged on all subsequent delinquent assessments or installments thereof. In the absence of another established nonusurious rate, delinquent assessments shall bear interest from the date of delinquency at the maximum rate permitted under RCW 19.52.020 on the date on which the assessments became delinquent.

(14) The association shall be entitled to recover any costs and reasonable attorneys' fees incurred in connection with the collection of delinquent assessments, whether or not such collection activities result in suit being commenced or prosecuted to judgment. In addition, the association shall be entitled to recover costs and reasonable attorneys' fees if it prevails on appeal and in the enforcement of a judgment.

(15) The association upon written request shall furnish to a unit owner or a mortgagee a statement signed by an officer or authorized agent of the association setting forth the amount of unpaid assessments against that unit. The statement shall be furnished within fifteen days after receipt of the request and is binding on the association, the board of directors, and every unit owner, unless and to the extent known by the recipient to be false.

(16) To the extent not inconsistent with this section, the declaration may provide for such additional remedies for collection of assessments as may be permitted by law.

(17)(a) When the association mails to the unit owner by first-class mail the first notice of delinquency for past due assessments to the unit address and to any other address that the owner has provided to the association, the association shall include a first preforeclosure notice that states as follows:

THIS IS A NOTICE OF DELINQUENCY FOR PAST DUE ASSESSMENTS
FROM THE UNIT OWNERS' ASSOCIATION TO WHICH YOUR HOME BELONGS.
THIS NOTICE IS ONE STEP IN A PROCESS THAT COULD RESULT IN YOUR LOSING YOUR HOME.
CONTACT A HOUSING COUNSELOR OR AN ATTORNEY LICENSED IN WASHINGTON NOW to assess your situation and refer you to mediation if you might benefit. **DO NOT DELAY.**
BE CAREFUL of people who claim they can help you. There are many individuals and businesses that prey upon borrowers in distress.
REFER TO THE CONTACTS BELOW for sources of assistance.

SEEKING ASSISTANCE

Housing counselors and legal assistance may be available at little or no cost to you. If you would like assistance in determining your rights and opportunities to keep your house, you may contact the following:

The statewide foreclosure hotline for assistance and referral to housing counselors recommended by the Housing Finance Commission

Telephone: . . . . . Website: . . . . . .

The United States Department of Housing and Urban Development

Telephone: . . . . . Website: . . . . . .

The statewide civil legal aid hotline for assistance and referrals to other housing counselors and attorneys

Telephone: . . . . . Website: . . . . . .

The association shall obtain the toll-free numbers and website information from the department of commerce for inclusion in the notice.

(b) If, when a delinquent account is referred to an association's attorney, the first preforeclosure notice required under (a) of this subsection has not yet been mailed to the unit owner, the association or the association's attorney shall mail the first preforeclosure notice to the unit owner in order to satisfy the requirement in (a) of this subsection.

(c) Mailing the first preforeclosure notice pursuant to (a) of this subsection does not satisfy the requirement in subsection (18)(b) of this section to mail a second preforeclosure notice at or after the date that assessments have become past due for at least 90 days. The second preforeclosure notice may not be mailed sooner than 60 days after the first preforeclosure notice is mailed.

(18) An association may not commence an action to foreclose a lien on a unit under this section unless:

(a) The unit owner, at the time the action is commenced, owes at least a sum equal to the greater of:

(i) Three months or more of assessments, not including fines, late charges, interest, attorneys' fees, or costs incurred by the association in connection with the collection of a delinquent owner's account; or

(ii) ((~~$200~~)) $2,000 of assessments, not including fines, late charges, interest, attorneys' fees, or costs incurred by the association in connection with the collection of a delinquent owner's account;

(b) At or after the date that assessments have become past due for at least 90 days, but no sooner than 60 days after the first preforeclosure notice required in subsection (17)(a) of this section is mailed, the association has mailed, by first-class mail, to the owner, at the unit address and to any other address which the owner has provided to the association, a second notice of delinquency, which ((~~shall state as follows:~~

~~**THIS IS A NOTICE OF DELINQUENCY FOR PAST DUE ASSESSMENTS**~~

~~**FROM THE UNIT OWNERS' ASSOCIATION TO WHICH YOUR HOME BELONGS.**~~

~~**THIS NOTICE IS ONE STEP IN A PROCESS THAT COULD RESULT IN YOUR LOSING YOUR HOME**.~~

~~**CONTACT A HOUSING COUNSELOR OR AN ATTORNEY LICENSED IN WASHINGTON NOW** to assess your situation and refer you to mediation if you might benefit. **DO NOT DELAY**.~~

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~~The United States Department of Housing and Urban Development~~

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~~The statewide civil legal aid hotline for assistance and referrals to other housing counselors and attorneys~~

~~Telephone: . . . . . Website: . . . . . .~~

~~The association shall obtain the toll-free numbers and website information from the department of commerce for inclusion in the notice~~)) must include a second preforeclosure notice that contains the same information as the first preforeclosure notice provided to the unit owner pursuant to subsection (17)(a) of this section. The second preforeclosure notice may not be mailed sooner than 60 days after the first preforeclosure notice required in subsection (17)(a) of this section is mailed;

(c) At least 180 days have elapsed from the date the minimum amount required in (a) of this subsection has accrued; and

(d) The board approves commencement of a foreclosure action specifically against that unit.

(((~~18~~))) (19) Every aspect of a collection, foreclosure, sale, or other conveyance under this section, including the method, advertising, time, date, place, and terms, must be commercially reasonable.

Sec. 4. RCW 64.34.364 and 2021 c 222 s 6 are each amended to read as follows:

(1) The association has a lien on a unit for any unpaid assessments levied against a unit from the time the assessment is due.

(2) A lien under this section shall be prior to all other liens and encumbrances on a unit except: (a) Liens and encumbrances recorded before the recording of the declaration; (b) a mortgage on the unit recorded before the date on which the assessment sought to be enforced became delinquent; and (c) liens for real property taxes and other governmental assessments or charges against the unit. A lien under this section is not subject to the provisions of chapter 6.13 RCW.

(3) Except as provided in subsections (4) and (5) of this section, the lien shall also be prior to the mortgages described in subsection (2)(b) of this section to the extent of assessments for common expenses, excluding any amounts for capital improvements, based on the periodic budget adopted by the association pursuant to RCW 64.34.360(1) which would have become due during the six months immediately preceding the date of a sheriff's sale in an action for judicial foreclosure by either the association or a mortgagee, the date of a trustee's sale in a nonjudicial foreclosure by a mortgagee, or the date of recording of the declaration of forfeiture in a proceeding by the vendor under a real estate contract.

(4) The priority of the association's lien against units encumbered by a mortgage held by an eligible mortgagee or by a mortgagee which has given the association a written request for a notice of delinquent assessments shall be reduced by up to three months if and to the extent that the lien priority under subsection (3) of this section includes delinquencies which relate to a period after such holder becomes an eligible mortgagee or has given such notice and before the association gives the holder a written notice of the delinquency. This subsection does not affect the priority of mechanics' or material suppliers' liens, or the priority of liens for other assessments made by the association.

(5) If the association forecloses its lien under this section nonjudicially pursuant to chapter 61.24 RCW, as provided by subsection (9) of this section, the association shall not be entitled to the lien priority provided for under subsection (3) of this section.

(6) Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same real estate, those liens have equal priority.

(7) Recording of the declaration constitutes record notice and perfection of the lien for assessments. While no further recording of any claim of lien for assessment under this section shall be required to perfect the association's lien, the association may record a notice of claim of lien for assessments under this section in the real property records of any county in which the condominium is located. Such recording shall not constitute the written notice of delinquency to a mortgagee referred to in subsection (2) of this section.

(8) A lien for unpaid assessments and the personal liability for payment of assessments is extinguished unless proceedings to enforce the lien or collect the debt are instituted within three years after the amount of the assessments sought to be recovered becomes due.

(9) The lien arising under this section may be enforced judicially by the association or its authorized representative in the manner set forth in chapter 61.12 RCW. The lien arising under this section may be enforced nonjudicially in

the manner set forth in chapter 61.24 RCW for nonjudicial foreclosure of deeds of trust if the declaration (a) contains a grant of the condominium in trust to a trustee qualified under RCW 61.24.010 to secure the obligations of the unit owners to the association for the payment of assessments, (b) contains a power of sale, (c) provides in its terms that the units are not used principally for agricultural or farming purposes, and (d) provides that the power of sale is operative in the case of a default in the obligation to pay assessments. The association or its authorized representative shall have the power, unless prohibited by the declaration, to purchase the unit at the foreclosure sale and to acquire, hold, lease, mortgage, or convey the same. Upon an express waiver in the complaint of any right to a deficiency judgment in a judicial foreclosure action, the period of redemption shall be eight months. Nothing in this section shall prohibit an association from taking a deed in lieu of foreclosure.

(10) From the time of commencement of an action by the association to foreclose a lien for nonpayment of delinquent assessments against a unit that is not occupied by the owner thereof, the association shall be entitled to the appointment of a receiver to collect from the lessee thereof the rent for the unit as and when due. If the rental is not paid, the receiver may obtain possession of the unit, refurbish it for rental up to a reasonable standard for rental units in this type of condominium, rent the unit or permit its rental to others, and apply the rents first to the cost of the receivership and attorneys' fees thereof, then to the cost of refurbishing the unit, then to applicable charges, then to costs, fees, and charges of the foreclosure action, and then to the payment of the delinquent assessments. Only a receiver may take possession and collect rents under this subsection, and a receiver shall not be appointed less than ((~~ninety~~)) 90 days after the delinquency. The exercise by the association of the foregoing rights shall not affect the priority of preexisting liens on the unit.

(11) Except as provided in subsection (3) of this section, the holder of a mortgage or other purchaser of a unit who obtains the right of possession of the unit through foreclosure shall not be liable for assessments or installments thereof that became due prior to such right of possession. Such unpaid assessments shall be deemed to be common expenses collectible from all the unit owners, including such mortgagee or other purchaser of the unit. Foreclosure of a mortgage does not relieve the prior owner of personal liability for assessments accruing against the unit prior to the date of such sale as provided in this subsection.

(12) In addition to constituting a lien on the unit, each assessment shall be the joint and several obligation of the owner or owners of the unit to which the same are assessed as of the time the assessment is due. In a voluntary conveyance, the grantee of a unit shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor up to the time of the grantor's conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. Suit to recover a personal judgment for any delinquent assessment shall be maintainable in any court of competent jurisdiction without foreclosing or waiving the lien securing such sums.

(13) The association may from time to time establish reasonable late charges and a rate of interest to be charged on all subsequent delinquent assessments or installments thereof. In the absence of another established

nonusurious rate, delinquent assessments shall bear interest from the date of delinquency at the maximum rate permitted under RCW 19.52.020 on the date on which the assessments became delinquent.

(14) The association shall be entitled to recover any costs and reasonable attorneys' fees incurred in connection with the collection of delinquent assessments, whether or not such collection activities result in suit being commenced or prosecuted to judgment. In addition, the association shall be entitled to recover costs and reasonable attorneys' fees if it prevails on appeal and in the enforcement of a judgment.

(15) The association upon written request shall furnish to a unit owner or a mortgagee a statement signed by an officer or authorized agent of the association setting forth the amount of unpaid assessments against that unit. The statement shall be furnished within fifteen days after receipt of the request and is binding on the association, the board of directors, and every unit owner, unless and to the extent known by the recipient to be false.

(16) To the extent not inconsistent with this section, the declaration may provide for such additional remedies for collection of assessments as may be permitted by law.

(17)(a) When the association mails to the unit owner by first-class mail the first notice of delinquency for past due assessments to the unit address and to any other address that the owner has provided to the association, the association shall include a first preforeclosure notice that states as follows:

THIS IS A NOTICE OF DELINQUENCY FOR PAST DUE ASSESSMENTS
FROM THE UNIT OWNERS' ASSOCIATION TO WHICH YOUR HOME BELONGS.
THIS NOTICE IS ONE STEP IN A PROCESS THAT COULD RESULT IN YOUR LOSING YOUR HOME.
CONTACT A HOUSING COUNSELOR OR AN ATTORNEY LICENSED IN WASHINGTON NOW to assess your situation and refer you to mediation if you might benefit. **DO NOT DELAY.**
BE CAREFUL of people who claim they can help you. There are many individuals and businesses that prey upon borrowers in distress.
REFER TO THE CONTACTS BELOW for sources of assistance.

SEEKING ASSISTANCE

Housing counselors and legal assistance may be available at little or no cost to you. If you would like assistance in determining your rights and opportunities to keep your house, you may contact the following:

The statewide foreclosure hotline for assistance and referral to housing counselors recommended by the Housing Finance Commission

Telephone: . . . . . Website: . . . . . .

The United States Department of Housing and Urban Development

Telephone: . . . . . Website: . . . . . .

The statewide civil legal aid hotline for assistance and referrals to other housing counselors and attorneys

Telephone: . . . . . Website: . . . . . .

The association shall obtain the toll-free numbers and website information from the department of commerce for inclusion in the notice.

(b) If, when a delinquent account is referred to an association's attorney, the first preforeclosure notice required under (a) of this subsection has not yet been mailed to the unit owner, the association or the association's attorney shall mail the first preforeclosure notice to the unit owner in order to satisfy the requirement in (a) of this subsection.

(c) Mailing the first preforeclosure notice pursuant to (a) of this subsection does not satisfy the requirement in subsection (18)(b) of this section to mail a second preforeclosure notice at or after the date that assessments have become past due for at least 90 days. The second preforeclosure notice may not be mailed sooner than 60 days after the first preforeclosure notice is mailed.

(18) An association may not commence an action to foreclose a lien on a unit under this section unless:

(a) The unit owner, at the time the action is commenced, owes at least a sum equal to the greater of:

(i) Three months or more of assessments, not including fines, late charges, interest, attorneys' fees, or costs incurred by the association in connection with the collection of a delinquent owner's account; or

(ii) ((~~$200~~)) $2,000 of assessments, not including fines, late charges, interest, attorneys' fees, or costs incurred by the association in connection with the collection of a delinquent owner's account;

(b) At or after the date that assessments have become past due for at least 90 days, but no sooner than 60 days after the first preforeclosure notice required in subsection (17)(a) of this section is mailed, the association has mailed, by first-class mail, to the owner, at the unit address and to any other address which the owner has provided to the association, a second notice of delinquency, which ((~~shall state as follows:~~

~~**THIS IS A NOTICE OF DELINQUENCY FOR PAST DUE ASSESSMENTS**~~

~~**FROM THE UNIT OWNERS' ASSOCIATION TO WHICH YOUR HOME BELONGS.**~~

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~~The statewide civil legal aid hotline for assistance and referrals to other housing counselors and attorneys~~
~~Telephone: . . . . . Website: . . . . . .~~

~~The association shall obtain the toll-free numbers and website information from the department of commerce for inclusion in the notice~~)) must include a second preforeclosure notice that contains the same information as the first preforeclosure notice provided to the unit owner pursuant to subsection (17)(a) of this section. The second preforeclosure notice may not be mailed sooner than 60 days after the first preforeclosure notice required in subsection (17)(a) of this section is mailed;

(c) At least 90 days have elapsed from the date the minimum amount required in (a) of this subsection has accrued; and

(d) The board approves commencement of a foreclosure action specifically against that unit.

((~~(18)~~)) (19) Every aspect of a collection, foreclosure, sale, or other conveyance under this section, including the method, advertising, time, date, place, and terms, must be commercially reasonable.

Sec. 5. RCW 64.38.100 and 2021 c 222 s 7 are each amended to read as follows:

(1)(a) If the governing documents of an association provide for a lien on the lot of any owner for unpaid assessments, the association shall include the following first preforeclosure notice when mailing to the lot owner by first-class mail the first notice of delinquency to the lot address and to any other address that the owner has provided to the association:

THIS IS A NOTICE OF DELINQUENCY FOR PAST DUE ASSESSMENTS
FROM THE HOMEOWNERS' ASSOCIATION TO WHICH YOUR HOME BELONGS.
THIS NOTICE IS ONE STEP IN A PROCESS THAT COULD RESULT IN YOUR LOSING YOUR HOME.
CONTACT A HOUSING COUNSELOR OR AN ATTORNEY LICENSED IN WASHINGTON NOW to assess your situation and refer you to mediation if you might benefit. **DO NOT DELAY**.
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Telephone: . . . . . Website: . . . . . .
The United States Department of Housing and Urban Development

Telephone: . . . . . Website: . . . . . .

The statewide civil legal aid hotline for assistance and referrals to other housing counselors and attorneys

Telephone: . . . . . Website: . . . . . .

The association shall obtain the toll-free numbers and website information from the department of commerce for inclusion in the notice.

(b) If, when a delinquent account is referred to an association's attorney, the first preforeclosure notice required under (a) of this subsection has not yet been mailed to the lot owner, the association or the association's attorney shall mail the first preforeclosure notice to the lot owner in order to satisfy the requirement in (a) of this subsection.

(c) Mailing the first preforeclosure notice pursuant to (a) of this subsection does not satisfy the requirement in subsection (2)(b) of this section to mail a second preforeclosure notice at or after the date that assessments have become past due for at least 90 days. The second preforeclosure notice may not be mailed sooner than 60 days after the first preforeclosure notice is mailed.

(2) If the governing documents of an association provide for a lien on the lot of any owner for unpaid assessments, the association may not commence an action to foreclose the lien unless:

(a) The lot owner, at the time the action is commenced, owes at least a sum equal to the greater of:

(i) Three months or more of assessments, not including fines, late charges, interest, attorneys' fees, or costs incurred by the association in connection with the collection of a delinquent owner's account; or

(ii) ((~~$200~~)) $2,000 of assessments, not including fines, late charges, interest, attorneys' fees, or costs incurred by the association in connection with the collection of a delinquent owner's account;

(b) At or after the date that assessments have become past due for at least 90 days, but no sooner than 60 days after the first preforeclosure notice required in subsection (1)(a) of this section is mailed, the association has mailed, by first-class mail, to the owner, at the lot address and to any other address which the owner has provided to the association, a second notice of delinquency, which ((~~shall state as follows:~~

~~**THIS IS A NOTICE OF DELINQUENCY FOR PAST DUE ASSESSMENTS**~~

~~**FROM THE HOMEOWNERS' ASSOCIATION TO WHICH YOUR HOME BELONGS.**~~

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~~The statewide civil legal aid hotline for assistance and referrals to other housing counselors and attorneys~~

~~Telephone: . . . . . Website: . . . . . .~~

~~The association shall obtain the toll-free numbers and website information from the department of commerce for inclusion in the notice~~)) must include a second preforeclosure notice that contains the same information as the first preforeclosure notice provided to the lot owner pursuant to subsection (1)(a) of this section. The second preforeclosure notice may not be mailed sooner than 60 days after the first preforeclosure notice required in subsection (1)(a) of this section is mailed;

(c) At least 180 days have elapsed from the date the minimum amount required in (a) of this subsection has accrued; and

(d) The board approves commencement of a foreclosure action specifically against that lot.

((~~(2)~~)) (3) Every aspect of a collection, foreclosure, sale, or other conveyance under this section, including the method, advertising, time, date, place, and terms, must be commercially reasonable.

Sec. 6. RCW 64.38.100 and 2021 c 222 s 8 are each amended to read as follows:

(1)(a) If the governing documents of an association provide for a lien on the lot of any owner for unpaid assessments, the association shall include the following first preforeclosure notice when mailing to the lot owner by first-class mail the first notice of delinquency to the lot address and to any other address that the owner has provided to the association:

THIS IS A NOTICE OF DELINQUENCY FOR PAST DUE ASSESSMENTS

FROM THE HOMEOWNERS' ASSOCIATION TO WHICH YOUR HOME BELONGS.

THIS NOTICE IS ONE STEP IN A PROCESS THAT COULD RESULT IN YOUR LOSING YOUR HOME.

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The United States Department of Housing and Urban Development

Telephone: . . . . . Website: . . . . . .

The statewide civil legal aid hotline for assistance and referrals to other housing counselors and attorneys

Telephone: . . . . . Website: . . . . . .

The association shall obtain the toll-free numbers and website information from the department of commerce for inclusion in the notice.

(b) If, when a delinquent account is referred to an association's attorney, the first preforeclosure notice required under (a) of this subsection has not yet been mailed to the lot owner, the association or the association's attorney shall mail the first preforeclosure notice to the lot owner in order to satisfy the requirement in (a) of this subsection.

(c) Mailing the first preforeclosure notice pursuant to (a) of this subsection does not satisfy the requirement in subsection (2)(b) of this section to mail a second preforeclosure notice at or after the date that assessments have become past due for at least 90 days. The second preforeclosure notice may not be mailed sooner than 60 days after the first preforeclosure notice is mailed.

(2) If the governing documents of an association provide for a lien on the lot of any owner for unpaid assessments, the association may not commence an action to foreclose the lien unless:

(a) The lot owner, at the time the action is commenced, owes at least a sum equal to the greater of:

(i) Three months or more of assessments, not including fines, late charges, interest, attorneys' fees, or costs incurred by the association in connection with the collection of a delinquent owner's account; or

(ii) ((~~$200~~)) $2,000 of assessments, not including fines, late charges, interest, attorneys' fees, or costs incurred by the association in connection with the collection of a delinquent owner's account;

(b) At or after the date that assessments have become past due for at least 90 days, but no sooner than 60 days after the first preforeclosure notice required in subsection (1)(a) of this section is mailed, the association has mailed, by first-class mail, to the owner, at the lot address and to any other address which the owner has provided to the association, a second notice of delinquency, which ((~~shall state as follows:~~

~~**THIS IS A NOTICE OF DELINQUENCY FOR PAST DUE ASSESSMENTS**~~

~~**FROM THE HOMEOWNERS' ASSOCIATION TO WHICH YOUR HOME BELONGS.**~~

~~**THIS NOTICE IS ONE STEP IN A PROCESS THAT COULD RESULT IN YOUR LOSING YOUR HOME**.~~

~~**CONTACT A HOUSING COUNSELOR OR AN ATTORNEY LICENSED IN WASHINGTON NOW** to assess your situation and refer you to mediation if you might benefit. **DO NOT DELAY**.~~

~~**BE CAREFUL** of people who claim they can help you. There are many individuals and businesses that prey upon borrowers in distress.~~

~~**REFER TO THE CONTACTS BELOW** for sources of assistance.~~

~~**SEEKING ASSISTANCE**~~

~~Housing counselors and legal assistance may be available at little or no cost to you. If you would like assistance in determining your rights and opportunities to keep your house, you may contact the following:~~

~~The statewide foreclosure hotline for assistance and referral to housing counselors recommended by the Housing Finance Commission~~

~~Telephone: . . . . . Website: . . . . . .~~

~~The United States Department of Housing and Urban Development~~

~~Telephone: . . . . . Website: . . . . . .~~

~~The statewide civil legal aid hotline for assistance and referrals to other housing counselors and attorneys~~

~~Telephone: . . . . . Website: . . . . . .~~

~~The association shall obtain the toll-free numbers and website information from the department of commerce for inclusion in the notice~~)) must include a second preforeclosure notice that contains the same information as the first preforeclosure notice provided to the lot owner pursuant to subsection (1)(a) of this section. The second preforeclosure notice may not be mailed sooner than 60 days after the first preforeclosure notice required in subsection (1)(a) of this section is mailed;

(c) At least 90 days have elapsed from the date the minimum amount required in (a) of this subsection has accrued; and

(d) The board approves commencement of a foreclosure action specifically against that lot.

((~~(2)~~)) (3) Every aspect of a collection, foreclosure, sale, or other conveyance under this section, including the method, advertising, time, date, place, and terms, must be commercially reasonable.

Sec. 7. RCW 64.90.485 and 2021 c 222 s 1 are each amended to read as follows:

(1) The association has a statutory lien on each unit for any unpaid assessment against the unit from the time such assessment is due.

(2) A lien under this section has priority over all other liens and encumbrances on a unit except:

(a) Liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances that the association creates, assumes, or takes subject to;

(b) Except as otherwise provided in subsection (3) of this section, a security interest on the unit recorded before the date on which the unpaid assessment became due or, in a cooperative, a security interest encumbering only the unit owner's interest and perfected before the date on which the unpaid assessment became due; and

(c) Liens for real estate taxes and other state or local governmental assessments or charges against the unit or cooperative.

(3)(a) A lien under this section also has priority over the security interests described in subsection (2)(b) of this section to the extent of an amount equal to the following:

(i) The common expense assessments, excluding any amounts for capital improvements, based on the periodic budget adopted by the association pursuant to RCW 64.90.480(1), along with any specially allocated assessments that are properly assessable against the unit under such periodic budget, which would have become due in the absence of acceleration during the six months immediately preceding the institution of proceedings to foreclose either the association's lien or a security interest described in subsection (2)(b) of this section;

(ii) The association's actual costs and reasonable attorneys' fees incurred in foreclosing its lien but incurred after the giving of the notice described in (a)(iii) of this subsection; provided, however, that the costs and reasonable attorneys' fees that will have priority under this subsection (3)(a)(ii) shall not exceed ((~~two thousand dollars~~)) $2,000 or an amount equal to the amounts described in (a)(i) of this subsection, whichever is less;

(iii) The amounts described in (a)(ii) of this subsection shall be prior only to the security interest of the holder of a security interest on the unit recorded before the date on which the unpaid assessment became due and only if the association has given that holder not less than ((~~sixty~~)) 60 days' prior written notice that the owner of the unit is in default in payment of an assessment. The notice shall contain:

(A) Name of the borrower;

(B) Recording date of the trust deed or mortgage;

(C) Recording information;

(D) Name of condominium, unit owner, and unit designation stated in the declaration or applicable supplemental declaration;

(E) Amount of unpaid assessment; and

(F) A statement that failure to, within ((~~sixty~~)) 60 days of the written notice, submit the association payment of six months of assessments as described in (a)(i) of this subsection will result in the priority of the amounts described in (a)(ii) of this subsection; and

(iv) Upon payment of the amounts described in (a)(i) and (ii) of this subsection by the holder of a security interest, the association's lien described in this subsection (3)(a) shall thereafter be fully subordinated to the lien of such holder's security interest on the unit.

(b) For the purposes of this subsection:

(i) "Institution of proceedings" means either:

(A) The date of recording of a notice of trustee's sale by a deed of trust beneficiary;

(B) The date of commencement, pursuant to applicable court rules, of an action for judicial foreclosure either by the association or by the holder of a recorded security interest; or

(C) The date of recording of a notice of intention to forfeit in a real estate contract forfeiture proceeding by the vendor under a real estate contract.

(ii) "Capital improvements" does not include making, in the ordinary course of management, repairs to common elements or replacements of the common elements with substantially similar items, subject to: (A) Availability of materials and products, (B) prevailing law, or (C) sound engineering and construction standards then prevailing.

(c) The adoption of a periodic budget that purports to allocate to a unit any fines, late charges, interest, attorneys' fees and costs incurred for services unrelated to the foreclosure of the association's lien, other collection charges, or specially allocated assessments assessed under RCW 64.90.480 (6) or (7) does not cause any such items to be included in the priority amount affecting such unit.

(4) Subsections (2) and (3) of this section do not affect the priority of mechanics' or material suppliers' liens to the extent that law of this state other than chapter 277, Laws of 2018 gives priority to such liens, or the priority of liens for other assessments made by the association.

(5) A lien under this section is not subject to chapter 6.13 RCW.

(6) If the association forecloses its lien under this section nonjudicially pursuant to chapter 61.24 RCW, as provided under subsection (13) of this section, the association is not entitled to the lien priority provided for under subsection (3) of this section, and is subject to the limitations on deficiency judgments as provided in chapter 61.24 RCW.

(7) Unless the declaration provides otherwise, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority as to each other, and any foreclosure of one such lien shall not affect the lien of the other.

(8) Recording of the declaration constitutes record notice and perfection of the statutory lien created under this section. Further notice or recordation of any claim of lien for assessment under this section is not required, but is not prohibited.

(9) A lien for unpaid assessments and the personal liability for payment of those assessments are extinguished unless proceedings to enforce the lien or collect the debt are instituted within six years after the full amount of the assessments sought to be recovered becomes due.

(10) This section does not prohibit actions against unit owners to recover sums for which subsection (1) of this section creates a lien or prohibit an association from taking a deed in lieu of foreclosure.

(11) The association upon written request must furnish to a unit owner or a mortgagee a statement signed by an officer or authorized agent of the association setting forth the amount of unpaid assessments or the priority amount against that unit, or both. The statement must be furnished within ((~~fifteen~~)) 15 days after receipt of the request and is binding on the association, the board, and every unit owner unless, and to the extent, known by the recipient to be false. The liability of a recipient who reasonably relies upon the statement must not exceed

the amount set forth in any statement furnished pursuant to this section or RCW 64.90.640(1)(b).

(12) In a cooperative, upon nonpayment of an assessment on a unit, the unit owner may be evicted in the same manner as provided by law in the case of an unlawful holdover by a commercial tenant, and the lien may be foreclosed as provided under this section.

(13) The association's lien may be foreclosed in accordance with (a) and (b) of this subsection.

(a) In a common interest community other than a cooperative, the association's lien may be foreclosed judicially in accordance with chapter 61.12 RCW, subject to any rights of redemption under chapter 6.23 RCW.

(b) The lien may be enforced nonjudicially in the manner set forth in chapter 61.24 RCW for nonjudicial foreclosure of deeds of trust if the declaration: Contains a grant of the common interest community in trust to a trustee qualified under RCW 61.24.010 to secure the obligations of the unit owners to the association for the payment of assessments, contains a power of sale, provides in its terms that the units are not used principally for agricultural purposes, and provides that the power of sale is operative in the case of a default in the obligation to pay assessments. The association or its authorized representative may purchase the unit at the foreclosure sale and acquire, hold, lease, mortgage, or convey the unit. Upon an express waiver in the complaint of any right to a deficiency judgment in a judicial foreclosure action, the period of redemption is eight months.

(c) In a cooperative in which the unit owners' interests in the units are real estate, the association's lien must be foreclosed in like manner as a mortgage on real estate or by power of sale under (b) of this subsection.

(d) In a cooperative in which the unit owners' interests in the units are personal property, the association's lien must be foreclosed in like manner as a security interest under chapter 62A.9A RCW.

(14) If the unit owner's interest in a unit in a cooperative is real estate, the following requirements apply:

(a) The association, upon nonpayment of assessments and compliance with this subsection, may sell that unit at a public sale or by private negotiation, and at any time and place. The association must give to the unit owner and any lessee of the unit owner reasonable notice in a record of the time, date, and place of any public sale or, if a private sale is intended, of the intention of entering into a contract to sell and of the time and date after which a private conveyance may be made. Such notice must also be sent to any other person that has a recorded interest in the unit that would be cut off by the sale, but only if the recorded interest was on record seven weeks before the date specified in the notice as the date of any public sale or seven weeks before the date specified in the notice as the date after which a private sale may be made. The notices required under this subsection may be sent to any address reasonable in the circumstances. A sale may not be held until five weeks after the sending of the notice. The association may buy at any public sale and, if the sale is conducted by a fiduciary or other person not related to the association, at a private sale.

(b) Unless otherwise agreed to or as stated in this section, the unit owner is liable for any deficiency in a foreclosure sale.

(c) The proceeds of a foreclosure sale must be applied in the following order:

(i) The reasonable expenses of sale;

(ii) The reasonable expenses of securing possession before sale; the reasonable expenses of holding, maintaining, and preparing the unit for sale, including payment of taxes and other governmental charges and premiums on insurance; and, to the extent provided for by agreement between the association and the unit owner, reasonable attorneys' fees, costs, and other legal expenses incurred by the association;

(iii) Satisfaction of the association's lien;

(iv) Satisfaction in the order of priority of any subordinate claim of record; and

(v) Remittance of any excess to the unit owner.

(d) A good-faith purchaser for value acquires the unit free of the association's debt that gave rise to the lien under which the foreclosure sale occurred and any subordinate interest, even though the association or other person conducting the sale failed to comply with this section. The person conducting the sale must execute a conveyance to the purchaser sufficient to convey the unit and stating that it is executed by the person after a foreclosure of the association's lien by power of sale and that the person was empowered to make the sale. Signature and title or authority of the person signing the conveyance as grantor and a recital of the facts of nonpayment of the assessment and of the giving of the notices required under this subsection are sufficient proof of the facts recited and of the authority to sign. Further proof of authority is not required even though the association is named as grantee in the conveyance.

(e) At any time before the association has conveyed a unit in a cooperative or entered into a contract for its conveyance under the power of sale, the unit owners or the holder of any subordinate security interest may cure the unit owner's default and prevent sale or other conveyance by tendering the performance due under the security agreement, including any amounts due because of exercise of a right to accelerate, plus the reasonable expenses of proceeding to foreclosure incurred to the time of tender, including reasonable attorneys' fees and costs of the creditor.

(15) In an action by an association to collect assessments or to foreclose a lien on a unit under this section, the court may appoint a receiver to collect all sums alleged to be due and owing to a unit owner before commencement or during pendency of the action. The receivership is governed under chapter 7.60 RCW. During pendency of the action, the court may order the receiver to pay sums held by the receiver to the association for any assessments against the unit. The exercise of rights under this subsection by the association does not affect the priority of preexisting liens on the unit.

(16) Except as provided in subsection (3) of this section, the holder of a mortgage or other purchaser of a unit who obtains the right of possession of the unit through foreclosure is not liable for assessments or installments of assessments that became due prior to such right of possession. Such unpaid assessments are deemed to be common expenses collectible from all the unit owners, including such mortgagee or other purchaser of the unit. Foreclosure of a mortgage does not relieve the prior unit owner of personal liability for

assessments accruing against the unit prior to the date of such sale as provided in this subsection.

(17) In addition to constituting a lien on the unit, each assessment is the joint and several obligation of the unit owner of the unit to which the same are assessed as of the time the assessment is due. A unit owner may not exempt himself or herself from liability for assessments. In a voluntary conveyance other than by foreclosure, the grantee of a unit is jointly and severally liable with the grantor for all unpaid assessments against the grantor up to the time of the grantor's conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee. Suit to recover a personal judgment for any delinquent assessment is maintainable in any court of competent jurisdiction without foreclosing or waiving the lien securing such sums.

(18) The association may from time to time establish reasonable late charges and a rate of interest to be charged, not to exceed the maximum rate calculated under RCW 19.52.020, on all subsequent delinquent assessments or installments of assessments. If the association does not establish such a rate, delinquent assessments bear interest from the date of delinquency at the maximum rate calculated under RCW 19.52.020 on the date on which the assessments became delinquent.

(19) The association is entitled to recover any costs and reasonable attorneys' fees incurred in connection with the collection of delinquent assessments, whether or not such collection activities result in a suit being commenced or prosecuted to judgment. The prevailing party is also entitled to recover costs and reasonable attorneys' fees in such suits, including any appeals, if it prevails on appeal and in the enforcement of a judgment.

(20) To the extent not inconsistent with this section, the declaration may provide for such additional remedies for collection of assessments as may be permitted by law.

(21)(a) When the association mails to the unit owner by first-class mail the first notice of delinquency for past due assessments to the unit address and to any other address that the owner has provided to the association, the association shall include a first preforeclosure notice that states as follows:

THIS IS A NOTICE OF DELINQUENCY FOR PAST DUE ASSESSMENTS

FROM THE UNIT OWNERS ASSOCIATION TO WHICH YOUR HOME BELONGS.

THIS NOTICE IS ONE STEP IN A PROCESS THAT COULD RESULT IN YOUR LOSING YOUR HOME.

CONTACT A HOUSING COUNSELOR OR AN ATTORNEY LICENSED IN WASHINGTON NOW to assess your situation and refer you to mediation if you might benefit. **DO NOT DELAY.**

BE CAREFUL of people who claim they can help you. There are many individuals and businesses that prey upon borrowers in distress.

REFER TO THE CONTACTS BELOW for sources of assistance.

SEEKING ASSISTANCE

Housing counselors and legal assistance may be available at little or no cost to you. If you would like assistance in determining your rights and opportunities to keep your house, you may contact the following:

The statewide foreclosure hotline for assistance and referral to housing counselors recommended by the Housing Finance Commission

Telephone: . . . . . Website: . . . . . .

The United States Department of Housing and Urban Development

Telephone: . . . . . Website: . . . . . .

The statewide civil legal aid hotline for assistance and referrals to other housing counselors and attorneys

Telephone: . . . . . Website: . . . . . .

The association shall obtain the toll-free numbers and website information from the department of commerce for inclusion in the notice.

(b) If, when a delinquent account is referred to an association's attorney, the first preforeclosure notice required under (a) of this subsection has not yet been mailed to the unit owner, the association or the association's attorney shall mail the first preforeclosure notice to the unit owner in order to satisfy the requirement in (a) of this subsection.

(c) Mailing the first preforeclosure notice pursuant to (a) of this subsection does not satisfy the requirement in subsection (22)(b) of this section to mail a second preforeclosure notice at or after the date that assessments have become past due for at least 90 days. The second preforeclosure notice may not be mailed sooner than 60 days after the first preforeclosure notice is mailed.

(22) An association may not commence an action to foreclose a lien on a unit under this section unless:

(a) The unit owner, at the time the action is commenced, owes at least a sum equal to the greater of:

(i) Three months or more of assessments, not including fines, late charges, interest, attorneys' fees, or costs incurred by the association in connection with the collection of a delinquent owner's account; or

(ii) ((~~$200~~)) $2,000 of assessments, not including fines, late charges, interest, attorneys' fees, or costs incurred by the association in connection with the collection of a delinquent owner's account;

(b) At or after the date that assessments have become past due for at least 90 days, but no sooner than 60 days after the first preforeclosure notice required in subsection (21)(a) of this section is mailed, the association has mailed, by first-class mail, to the owner, at the unit address and to any other address which the owner has provided to the association, a second notice of delinquency, which ((~~shall state as follows:~~

~~**THIS IS A NOTICE OF DELINQUENCY FOR PAST DUE ASSESSMENTS**~~

~~**FROM THE UNIT OWNERS' ASSOCIATION TO WHICH YOUR HOME BELONGS.**~~

~~**THIS NOTICE IS ONE STEP IN A PROCESS THAT COULD RESULT IN YOUR LOSING YOUR HOME**.~~

~~**CONTACT A HOUSING COUNSELOR OR AN ATTORNEY LICENSED IN WASHINGTON NOW** to assess your situation and refer you to mediation if you might benefit. **DO NOT DELAY**.~~

~~**BE CAREFUL** of people who claim they can help you. There are many individuals and businesses that prey upon borrowers in distress.~~

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~~**SEEKING ASSISTANCE**~~

~~Housing counselors and legal assistance may be available at little or no cost to you. If you would like assistance in determining your rights and opportunities to keep your house, you may contact the following:~~

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~~Telephone: . . . . . Website: . . . . . .~~

~~The statewide civil legal aid hotline for assistance and referrals to other housing counselors and attorneys~~

~~Telephone: . . . . . Website: . . . . . .~~

~~The association shall obtain the toll-free numbers and website information from the department of commerce for inclusion in the notice~~)) must include a second preforeclosure notice that contains the same information as the first preforeclosure notice provided to the owner pursuant to subsection (21)(a) of this section. The second preforeclosure notice may not be mailed sooner than 60 days after the first preforeclosure notice required in subsection (21)(a) of this section is mailed;

(c) At least 180 days have elapsed from the date the minimum amount required in (a) of this subsection has accrued; and

(d) The board approves commencement of a foreclosure action specifically against that unit.

((~~(22)~~)) (23) Every aspect of a collection, foreclosure, sale, or other conveyance under this section, including the method, advertising, time, date, place, and terms, must be commercially reasonable.

Sec. 8. RCW 64.90.485 and 2021 c 222 s 2 are each amended to read as follows:

(1) The association has a statutory lien on each unit for any unpaid assessment against the unit from the time such assessment is due.

(2) A lien under this section has priority over all other liens and encumbrances on a unit except:

(a) Liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances that the association creates, assumes, or takes subject to;

(b) Except as otherwise provided in subsection (3) of this section, a security interest on the unit recorded before the date on which the unpaid assessment became due or, in a cooperative, a security interest encumbering only the unit owner's interest and perfected before the date on which the unpaid assessment became due; and

(c) Liens for real estate taxes and other state or local governmental assessments or charges against the unit or cooperative.

(3)(a) A lien under this section also has priority over the security interests described in subsection (2)(b) of this section to the extent of an amount equal to the following:

(i) The common expense assessments, excluding any amounts for capital improvements, based on the periodic budget adopted by the association pursuant to RCW 64.90.480(1), along with any specially allocated assessments that are properly assessable against the unit under such periodic budget, which would have become due in the absence of acceleration during the six months immediately preceding the institution of proceedings to foreclose either the association's lien or a security interest described in subsection (2)(b) of this section;

(ii) The association's actual costs and reasonable attorneys' fees incurred in foreclosing its lien but incurred after the giving of the notice described in (a)(iii) of this subsection; provided, however, that the costs and reasonable attorneys' fees that will have priority under this subsection (3)(a)(ii) shall not exceed ((~~two thousand dollars~~)) $2,000 or an amount equal to the amounts described in (a)(i) of this subsection, whichever is less;

(iii) The amounts described in (a)(ii) of this subsection shall be prior only to the security interest of the holder of a security interest on the unit recorded before the date on which the unpaid assessment became due and only if the association has given that holder not less than ((~~sixty~~)) 60 days' prior written notice that the owner of the unit is in default in payment of an assessment. The notice shall contain:

(A) Name of the borrower;

(B) Recording date of the trust deed or mortgage;

(C) Recording information;

(D) Name of condominium, unit owner, and unit designation stated in the declaration or applicable supplemental declaration;

(E) Amount of unpaid assessment; and

(F) A statement that failure to, within ((~~sixty~~)) 60 days of the written notice, submit the association payment of six months of assessments as described in (a)(i) of this subsection will result in the priority of the amounts described in (a)(ii) of this subsection; and

(iv) Upon payment of the amounts described in (a)(i) and (ii) of this subsection by the holder of a security interest, the association's lien described in this subsection (3)(a) shall thereafter be fully subordinated to the lien of such holder's security interest on the unit.

(b) For the purposes of this subsection:

(i) "Institution of proceedings" means either:

(A) The date of recording of a notice of trustee's sale by a deed of trust beneficiary;

(B) The date of commencement, pursuant to applicable court rules, of an action for judicial foreclosure either by the association or by the holder of a recorded security interest; or

(C) The date of recording of a notice of intention to forfeit in a real estate contract forfeiture proceeding by the vendor under a real estate contract.

(ii) "Capital improvements" does not include making, in the ordinary course of management, repairs to common elements or replacements of the common elements with substantially similar items, subject to: (A) Availability of materials and products, (B) prevailing law, or (C) sound engineering and construction standards then prevailing.

(c) The adoption of a periodic budget that purports to allocate to a unit any fines, late charges, interest, attorneys' fees and costs incurred for services unrelated to the foreclosure of the association's lien, other collection charges, or specially allocated assessments assessed under RCW 64.90.480 (6) or (7) does not cause any such items to be included in the priority amount affecting such unit.

(4) Subsections (2) and (3) of this section do not affect the priority of mechanics' or material suppliers' liens to the extent that law of this state other than chapter 277, Laws of 2018 gives priority to such liens, or the priority of liens for other assessments made by the association.

(5) A lien under this section is not subject to chapter 6.13 RCW.

(6) If the association forecloses its lien under this section nonjudicially pursuant to chapter 61.24 RCW, as provided under subsection (13) of this section, the association is not entitled to the lien priority provided for under subsection (3) of this section, and is subject to the limitations on deficiency judgments as provided in chapter 61.24 RCW.

(7) Unless the declaration provides otherwise, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority as to each other, and any foreclosure of one such lien shall not affect the lien of the other.

(8) Recording of the declaration constitutes record notice and perfection of the statutory lien created under this section. Further notice or recordation of any claim of lien for assessment under this section is not required, but is not prohibited.

(9) A lien for unpaid assessments and the personal liability for payment of those assessments are extinguished unless proceedings to enforce the lien or collect the debt are instituted within six years after the full amount of the assessments sought to be recovered becomes due.

(10) This section does not prohibit actions against unit owners to recover sums for which subsection (1) of this section creates a lien or prohibit an association from taking a deed in lieu of foreclosure.

(11) The association upon written request must furnish to a unit owner or a mortgagee a statement signed by an officer or authorized agent of the association setting forth the amount of unpaid assessments or the priority amount against that unit, or both. The statement must be furnished within ((~~fifteen~~)) 15 days after receipt of the request and is binding on the association, the board, and every unit owner unless, and to the extent, known by the recipient to be false. The liability of a recipient who reasonably relies upon the statement must not exceed

the amount set forth in any statement furnished pursuant to this section or RCW 64.90.640(1)(b).

(12) In a cooperative, upon nonpayment of an assessment on a unit, the unit owner may be evicted in the same manner as provided by law in the case of an unlawful holdover by a commercial tenant, and the lien may be foreclosed as provided under this section.

(13) The association's lien may be foreclosed in accordance with (a) and (b) of this subsection.

(a) In a common interest community other than a cooperative, the association's lien may be foreclosed judicially in accordance with chapter 61.12 RCW, subject to any rights of redemption under chapter 6.23 RCW.

(b) The lien may be enforced nonjudicially in the manner set forth in chapter 61.24 RCW for nonjudicial foreclosure of deeds of trust if the declaration: Contains a grant of the common interest community in trust to a trustee qualified under RCW 61.24.010 to secure the obligations of the unit owners to the association for the payment of assessments, contains a power of sale, provides in its terms that the units are not used principally for agricultural purposes, and provides that the power of sale is operative in the case of a default in the obligation to pay assessments. The association or its authorized representative may purchase the unit at the foreclosure sale and acquire, hold, lease, mortgage, or convey the unit. Upon an express waiver in the complaint of any right to a deficiency judgment in a judicial foreclosure action, the period of redemption is eight months.

(c) In a cooperative in which the unit owners' interests in the units are real estate, the association's lien must be foreclosed in like manner as a mortgage on real estate or by power of sale under (b) of this subsection.

(d) In a cooperative in which the unit owners' interests in the units are personal property, the association's lien must be foreclosed in like manner as a security interest under chapter 62A.9A RCW.

(14) If the unit owner's interest in a unit in a cooperative is real estate, the following requirements apply:

(a) The association, upon nonpayment of assessments and compliance with this subsection, may sell that unit at a public sale or by private negotiation, and at any time and place. The association must give to the unit owner and any lessee of the unit owner reasonable notice in a record of the time, date, and place of any public sale or, if a private sale is intended, of the intention of entering into a contract to sell and of the time and date after which a private conveyance may be made. Such notice must also be sent to any other person that has a recorded interest in the unit that would be cut off by the sale, but only if the recorded interest was on record seven weeks before the date specified in the notice as the date of any public sale or seven weeks before the date specified in the notice as the date after which a private sale may be made. The notices required under this subsection may be sent to any address reasonable in the circumstances. A sale may not be held until five weeks after the sending of the notice. The association may buy at any public sale and, if the sale is conducted by a fiduciary or other person not related to the association, at a private sale.

(b) Unless otherwise agreed to or as stated in this section, the unit owner is liable for any deficiency in a foreclosure sale.

(c) The proceeds of a foreclosure sale must be applied in the following order:

(i) The reasonable expenses of sale;

(ii) The reasonable expenses of securing possession before sale; the reasonable expenses of holding, maintaining, and preparing the unit for sale, including payment of taxes and other governmental charges and premiums on insurance; and, to the extent provided for by agreement between the association and the unit owner, reasonable attorneys' fees, costs, and other legal expenses incurred by the association;

(iii) Satisfaction of the association's lien;

(iv) Satisfaction in the order of priority of any subordinate claim of record; and

(v) Remittance of any excess to the unit owner.

(d) A good-faith purchaser for value acquires the unit free of the association's debt that gave rise to the lien under which the foreclosure sale occurred and any subordinate interest, even though the association or other person conducting the sale failed to comply with this section. The person conducting the sale must execute a conveyance to the purchaser sufficient to convey the unit and stating that it is executed by the person after a foreclosure of the association's lien by power of sale and that the person was empowered to make the sale. Signature and title or authority of the person signing the conveyance as grantor and a recital of the facts of nonpayment of the assessment and of the giving of the notices required under this subsection are sufficient proof of the facts recited and of the authority to sign. Further proof of authority is not required even though the association is named as grantee in the conveyance.

(e) At any time before the association has conveyed a unit in a cooperative or entered into a contract for its conveyance under the power of sale, the unit owners or the holder of any subordinate security interest may cure the unit owner's default and prevent sale or other conveyance by tendering the performance due under the security agreement, including any amounts due because of exercise of a right to accelerate, plus the reasonable expenses of proceeding to foreclosure incurred to the time of tender, including reasonable attorneys' fees and costs of the creditor.

(15) In an action by an association to collect assessments or to foreclose a lien on a unit under this section, the court may appoint a receiver to collect all sums alleged to be due and owing to a unit owner before commencement or during pendency of the action. The receivership is governed under chapter 7.60 RCW. During pendency of the action, the court may order the receiver to pay sums held by the receiver to the association for any assessments against the unit. The exercise of rights under this subsection by the association does not affect the priority of preexisting liens on the unit.

(16) Except as provided in subsection (3) of this section, the holder of a mortgage or other purchaser of a unit who obtains the right of possession of the unit through foreclosure is not liable for assessments or installments of assessments that became due prior to such right of possession. Such unpaid assessments are deemed to be common expenses collectible from all the unit owners, including such mortgagee or other purchaser of the unit. Foreclosure of a mortgage does not relieve the prior unit owner of personal liability for

assessments accruing against the unit prior to the date of such sale as provided in this subsection.

(17) In addition to constituting a lien on the unit, each assessment is the joint and several obligation of the unit owner of the unit to which the same are assessed as of the time the assessment is due. A unit owner may not exempt himself or herself from liability for assessments. In a voluntary conveyance other than by foreclosure, the grantee of a unit is jointly and severally liable with the grantor for all unpaid assessments against the grantor up to the time of the grantor's conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee. Suit to recover a personal judgment for any delinquent assessment is maintainable in any court of competent jurisdiction without foreclosing or waiving the lien securing such sums.

(18) The association may from time to time establish reasonable late charges and a rate of interest to be charged, not to exceed the maximum rate calculated under RCW 19.52.020, on all subsequent delinquent assessments or installments of assessments. If the association does not establish such a rate, delinquent assessments bear interest from the date of delinquency at the maximum rate calculated under RCW 19.52.020 on the date on which the assessments became delinquent.

(19) The association is entitled to recover any costs and reasonable attorneys' fees incurred in connection with the collection of delinquent assessments, whether or not such collection activities result in a suit being commenced or prosecuted to judgment. The prevailing party is also entitled to recover costs and reasonable attorneys' fees in such suits, including any appeals, if it prevails on appeal and in the enforcement of a judgment.

(20) To the extent not inconsistent with this section, the declaration may provide for such additional remedies for collection of assessments as may be permitted by law.

(21)(a) When the association mails to the unit owner by first-class mail the first notice of delinquency for past due assessments to the unit address and to any other address that the owner has provided to the association, the association shall include a first preforeclosure notice that states as follows:

THIS IS A NOTICE OF DELINQUENCY FOR PAST DUE ASSESSMENTS

FROM THE UNIT OWNERS ASSOCIATION TO WHICH YOUR HOME BELONGS.

THIS NOTICE IS ONE STEP IN A PROCESS THAT COULD RESULT IN YOUR LOSING YOUR HOME.

CONTACT A HOUSING COUNSELOR OR AN ATTORNEY LICENSED IN WASHINGTON NOW to assess your situation and refer you to mediation if you might benefit. **DO NOT DELAY.**

BE CAREFUL of people who claim they can help you. There are many individuals and businesses that prey upon borrowers in distress.

REFER TO THE CONTACTS BELOW for sources of assistance.

SEEKING ASSISTANCE

Housing counselors and legal assistance may be available at little or no cost to you. If you would like assistance in determining your rights and opportunities to keep your house, you may contact the following:

The statewide foreclosure hotline for assistance and referral to housing counselors recommended by the Housing Finance Commission

Telephone: . . . . . Website: . . . . . .

The United States Department of Housing and Urban Development

Telephone: . . . . . Website: . . . . . .

The statewide civil legal aid hotline for assistance and referrals to other housing counselors and attorneys

Telephone: . . . . . Website: . . . . . .

The association shall obtain the toll-free numbers and website information from the department of commerce for inclusion in the notice.

(b) If, when a delinquent account is referred to an association's attorney, the first preforeclosure notice required under (a) of this subsection has not yet been mailed to the unit owner, the association or the association's attorney shall mail the first preforeclosure notice to the unit owner in order to satisfy the requirement in (a) of this subsection.

(c) Mailing the first preforeclosure notice pursuant to (a) of this subsection does not satisfy the requirement in subsection (22)(b) of this section to mail a second preforeclosure notice at or after the date that assessments have become past due for at least 90 days. The second preforeclosure notice may not be mailed sooner than 60 days after the first preforeclosure notice is mailed.

(22) An association may not commence an action to foreclose a lien on a unit under this section unless:

(a) The unit owner, at the time the action is commenced, owes at least a sum equal to the greater of:

(i) Three months or more of assessments, not including fines, late charges, interest, attorneys' fees, or costs incurred by the association in connection with the collection of a delinquent owner's account; or

(ii) ((~~$200~~)) $2,000 of assessments, not including fines, late charges, interest, attorneys' fees, or costs incurred by the association in connection with the collection of a delinquent owner's account;

(b) At or after the date that assessments have become past due for at least 90 days, but no sooner than 60 days after the first preforeclosure notice required in subsection (21)(a) of this section is mailed, the association has mailed, by first-class mail, to the owner, at the unit address and to any other address which the owner has provided to the association, a second notice of delinquency, which ((~~shall state as follows:~~

~~**THIS IS A NOTICE OF DELINQUENCY FOR PAST DUE ASSESSMENTS**~~

~~**FROM THE UNIT OWNERS' ASSOCIATION TO WHICH YOUR HOME BELONGS.**~~

~~**THIS NOTICE IS ONE STEP IN A PROCESS THAT COULD RESULT IN YOUR LOSING YOUR HOME**.~~

~~**CONTACT A HOUSING COUNSELOR OR AN ATTORNEY LICENSED IN WASHINGTON NOW** to assess your situation and refer you to mediation if you might benefit. **DO NOT DELAY**.~~

~~**BE CAREFUL** of people who claim they can help you. There are many individuals and businesses that prey upon borrowers in distress.~~

~~**REFER TO THE CONTACTS BELOW** for sources of assistance.~~

~~**SEEKING ASSISTANCE**~~

~~Housing counselors and legal assistance may be available at little or no cost to you. If you would like assistance in determining your rights and opportunities to keep your house, you may contact the following:~~

~~The statewide foreclosure hotline for assistance and referral to housing counselors recommended by the Housing Finance Commission~~

~~Telephone: . . . . . Website: . . . . . .~~

~~The United States Department of Housing and Urban Development~~

~~Telephone: . . . . . Website: . . . . . .~~

~~The statewide civil legal aid hotline for assistance and referrals to other housing counselors and attorneys~~

~~Telephone: . . . . . Website: . . . . . .~~

~~The association shall obtain the toll-free numbers and website information from the department of commerce for inclusion in the notice~~)) must include a second preforeclosure notice that contains the same information as the first preforeclosure notice provided to the owner pursuant to subsection (21)(a) of this section. The second preforeclosure notice may not be mailed sooner than 60 days after the first preforeclosure notice required in subsection (21)(a) of this section is mailed;

(c) At least 90 days have elapsed from the date the minimum amount required in (a) of this subsection has accrued; and

(d) The board approves commencement of a foreclosure action specifically against that unit.

(((~~(22)~~))) (23) Every aspect of a collection, foreclosure, sale, or other conveyance under this section, including the method, advertising, time, date, place, and terms, must be commercially reasonable.

Sec. 9. 2021 c 222 s 9 (uncodified) is amended to read as follows:

Sections 1, 3, 5, and 7 of this act expire January 1, ((~~2024~~)) 2025.

Sec. 10. 2021 c 222 s 10 (uncodified) is amended to read as follows:

Sections 2, 4, 6, and 8 of this act take effect January 1, ((~~2024~~)) 2025.

NEW SECTION. **Sec. 11.** Sections 1, 3, 5, and 7 of this act expire January 1, 2025.

NEW SECTION. **Sec. 12.** Sections 2, 4, 6, and 8 of this act take effect January 1, 2025.

Passed by the House April 14, 2023.
Passed by the Senate April 7, 2023.
Approved by the Governor May 1, 2023.
Filed in Office of Secretary of State May 2, 2023.

CHAPTER 215

[Engrossed House Bill 1663]

FUNCTIONALLY CONSOLIDATED PORT DISTRICTS—UNIFIED LEVY

AN ACT Relating to allowing port districts that have been functionally consolidated to adopt a unified levy; and adding a new section to chapter 53.08 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 53.08 RCW to read as follows:

(1) Two or more port districts, operating under a mutual agreement pursuant to RCW 53.08.240, may levy and collect jointly the property tax assessments authorized under RCW 53.36.020 under the following conditions:

(a) The port districts are adjacent, and the boundaries of the port districts are coextensive with county boundaries;

(b) The commissioners of each port district have, no later than July 1st, and by at least a two-thirds margin, voted to conduct a joint property tax levy for collection in the following year and for subsequent years, until such time as the commissioners of each port district have voted to discontinue the joint property tax levy;

(c) The joint property tax levy has been approved by a majority of voters at general elections called under RCW 29A.04.330 by the port district commissioners of the port districts that propose to conduct the joint property tax levy. The general elections within each port district must be held on the same day. If the certified election results show that a majority of the total votes cast among all the port districts participating in the general elections approve the joint property tax levy, then the joint levy shall be deemed approved. Once voters have approved the conduct of a joint property tax levy, the conduct of a joint levy in subsequent consecutive years does not require voter approval; and

(d) The joint property tax rate imposed is the same in each participating port district.

(2) The respective port districts are encouraged and authorized to share information with residents of each county, including mailed items to households, related to the ballot measure.

(3)(a) Two or more port districts that are jointly levying and collecting property taxes as provided for under subsection (1) of this section are considered a "taxing district" under RCW 84.04.120.

(b) The commissioners of the port districts that are jointly levying and collecting property taxes under subsection (1) of this section are considered the governing body of the districts for the purposes of RCW 84.55.120.

(4)(a) Port districts that are jointly levying and collecting property taxes as provided for in subsection (1) of this section may not independently conduct a property tax levy under RCW 53.36.020, except as provided in (b) of this subsection.

(b) Port districts conducting a joint levy may independently approve a property tax levy under RCW 53.36.020 to the extent needed to provide for payment of principal and interest on general bonded indebtedness.

(5)(a) Notwithstanding RCW 84.55.035, when conducting a joint property tax levy, the first joint levy amount must be set as provided for in RCW 84.55.020 as if the port districts had consolidated. Subsequent joint levies are subject to the limitations in RCW 84.55.010.

(b) Any increase in the property tax revenue by the jointly taxing port districts may only be authorized pursuant to RCW 84.55.120, except that any such increase must be approved by at least two-thirds of the commissioners of each of the port districts.

(c) Port districts that are jointly levying and collecting property taxes may conduct a levy in an amount exceeding the limitations provided for in chapter 84.55 RCW as provided for in RCW 84.55.050, except that such a levy may only be conducted if approved by a majority of voters in each port district participating in the joint property tax levy.

(6) The separate obligations of each of the port districts conducting a joint property tax levy shall not be affected by the conduct of the joint levy, and shall remain the responsibility of the individual port district subject to the obligation. Taxes and assessments for payment of such obligations shall continue to be levied and collected as provided for in subsection (4)(b) of this section in each port district notwithstanding the joint property tax levy. While any such obligations remain outstanding, funds subject to such obligations shall be kept separate.

(7)(a) In the event that two or more port districts operating under a mutual agreement pursuant to RCW 53.08.240 cease to operate under the agreement, the joint debts and assets of the port districts must be divided as provided for in the agreement. If no provision for such division was made, the debts and assets must be divided amongst the port districts in the same proportion as the property tax assessments were divided amongst the districts.

(b) The first property tax levy conducted by a port district after it ceases to conduct a joint property tax levy with another port district must be set so that the levy does not exceed the port district's proportional share of the last levy jointly conducted with one or more other port districts plus additional increases allowed under RCW 84.55.010.

Passed by the House April 14, 2023.
Passed by the Senate April 11, 2023.
Approved by the Governor May 1, 2023.
Filed in Office of Secretary of State May 2, 2023.

CHAPTER 216

[Substitute House Bill 1683]

DENTAL ONLY COVERAGE—DENTURIST SERVICES

AN ACT Relating to health carriers offering dental only coverage; and adding a new section to chapter 48.43 RCW.

Be it enacted by the Legislature of the State of Washington:

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

(1) Every health carrier offering dental only coverage and every health carrier offering dental only coverage in addition to a health plan delivered, issued for delivery, or renewed by a health carrier on and after January 1, 2024, shall permit denturists licensed under chapter 18.30 RCW to provide dental services or care included in their benefits package, to the extent that:

(a) The provision of such dental services or care is within the health care providers' permitted scope of practice; and

(b) The providers agree to abide by standards related to:

(i) Provision, utilization review, and cost containment of dental services;

(ii) Management and administrative procedures; and

(iii) Provision of cost-effective and clinically efficacious dental services.

(2) The requirements of subsection (1) of this section do not apply to a licensed health care profession regulated under Title 18 RCW when the licensing statute for the profession states that such requirements do not apply.

(3) For purposes of this section, "health carrier," in addition to the definition in RCW 48.43.005, also includes health care service contractors, limited health care service contractors, and disability insurers offering dental only coverage

(4) This act does not apply to a plan that offers dental only coverage when the plan relies solely on employees of the health carrier for provision of the benefits.

Passed by the House April 14, 2023.
Passed by the Senate April 11, 2023.
Approved by the Governor May 1, 2023.
Filed in Office of Secretary of State May 2, 2023.

CHAPTER 217

[House Bill 1772]

ALCOHOL AND CANNABIS COMBINATION PRODUCTS

AN ACT Relating to prohibiting the manufacture, importation, and sale of products that combine alcohol and tetrahydrocannabinol; adding a new section to chapter 69.50 RCW; and adding a new section to chapter 66.28 RCW.

Be it enacted by the Legislature of the State of Washington:

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

It is unlawful to manufacture, import, offer, or sell in this state a consumable product that contains cannabis or any form of tetrahydrocannabinol in combination with beer, wine, spirits, or any other type of liquor in the same product.

NEW SECTION. **Sec. 2.** A new section is added to chapter 66.28 RCW to read as follows:

In accordance with section 1 of this act, it is unlawful to manufacture, import, offer, or sell in this state a consumable product that contains cannabis or any form of tetrahydrocannabinol in combination with beer, wine, spirits, or any other type of liquor in the same product.

Passed by the House February 28, 2023.

Passed by the Senate April 12, 2023.
Approved by the Governor May 1, 2023.
Filed in Office of Secretary of State May 2, 2023.

CHAPTER 218

[Engrossed Second Substitute Senate Bill 5001]

PUBLIC FACILITIES DISTRICTS—CREATION OF ADDITIONAL DISTRICTS

AN ACT Relating to public facilities districts created by at least two city or county legislative authorities; and amending RCW 35.57.010, 35.57.020, 82.14.048, and 35.57.030.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 35.57.010 and 2010 c 192 s 1 are each amended to read as follows:

(1)(a) The legislative authority of any town or city located in a county with a population of less than one million may create a public facilities district.

(b) The legislative authorities of any contiguous group of towns or cities located in a county or counties each with a population of less than one million may enter an agreement under chapter 39.34 RCW for the creation and joint operation of a public facilities district.

(c) The legislative authority of any town or city, or any contiguous group of towns or cities, located in a county with a population of less than one million and the legislative authority of a contiguous county, or the legislative authority of the county or counties in which the towns or cities are located, may enter into an agreement under chapter 39.34 RCW for the creation and joint operation of a public facilities district.

(d) The legislative authority of a city located in a county with a population greater than one million may create a public facilities district, when the city has a total population of less than one hundred fifteen thousand but greater than eighty thousand and commences construction of a regional center prior to July 1, 2008.

(e) At least three contiguous towns or cities with a combined population of at least one hundred sixty thousand, each of which previously created a public facilities district under (a) of this subsection, may create an additional public facilities district. The previously created districts may continue their full corporate existence and activities notwithstanding the creation and existence of the additional district within the same geographic area.

(f) The legislative authority of two or more contiguous towns or cities or the legislative authority of two or more contiguous towns or cities and the legislative authority of the county or counties in which the towns or cities are located, each of which participated in the creation of a public facilities district under (c) of this subsection, may create an additional public facilities district. Any previously created district may continue its full corporate existence and activities notwithstanding the creation and existence of an additional district within the same geographic area. A public facilities district formed under this subsection (1)(f) must be created prior to July 1, 2026. The creation of a public facilities district under this subsection does not require all of the original participating towns, cities, or counties that created a public facilities district under (c) of this subsection to participate in the formation of the additional public facilities district under this subsection.

(2)(a) A public facilities district is coextensive with the boundaries of the city or town or contiguous group of cities or towns that created the district.

(b) A public facilities district created by an agreement between a town or city, or a contiguous group of towns or cities, and a contiguous county or the county in which they are located, is coextensive with the boundaries of the towns or cities, and the boundaries of the county or counties as to the unincorporated areas of the county or counties. The boundaries do not include incorporated towns or cities that are not parties to the agreement for the creation and joint operation of the district.

(3)(a) A public facilities district created by a single city or town shall be governed by a board of directors consisting of five members selected as follows: (i) Two members appointed by the legislative authority of the city or town; and (ii) three members appointed by legislative authority based on recommendations from local organizations. The members appointed under (a)(i) of this subsection, shall not be members of the legislative authority of the city or town. The members appointed under (a)(ii) of this subsection, must be based on recommendations received from local organizations that may include, but are not limited to, the local chamber of commerce, local economic development council, and local labor council. The members shall serve four-year terms. Of the initial members, one must be appointed for a one-year term, one must be appointed for a two-year term, one must be appointed for a three-year term, and the remainder must be appointed for four-year terms.

(b) A public facilities district created by a contiguous group of cities and towns must be governed by a board of directors consisting of seven members selected as follows: (i) Three members appointed by the legislative authorities of the cities and towns; and (ii) four members appointed by the legislative authorities of the cities and towns based on recommendations from local organizations. The members appointed under (b)(i) of this subsection shall not be members of the legislative authorities of the cities and towns. The members appointed under (b)(ii) of this subsection, must be based on recommendations received from local organizations that include, but are not limited to, the local chamber of commerce, local economic development council, local labor council, and a neighborhood organization that is directly affected by the location of the regional center in their area. The members of the board of directors must be appointed in accordance with the terms of the agreement under chapter 39.34 RCW for the joint operation of the district and shall serve four-year terms. Of the initial members, one must be appointed for a one-year term, one must be appointed for a two-year term, one must be appointed for a three-year term, and the remainder must be appointed for four-year terms.

(c) A public facilities district created by a town or city, or a contiguous group of towns or cities, and a contiguous county or the county or counties in which they are located, must be governed by a board of directors consisting of seven members selected as follows: (i) Three members appointed by the legislative authorities of the cities, towns, and county; and (ii) four members appointed by the legislative authorities of the cities, towns, and county based on recommendations from local organizations. The members appointed under (c)(i) of this subsection shall not be members of the legislative authorities of the cities, towns, or county. The members appointed under (c)(ii) of this subsection must be based on recommendations received from local organizations that include,

but are not limited to, the local chamber of commerce, the local economic development council, the local labor council, and a neighborhood organization that is directly affected by the location of the regional center in their area. The members of the board of directors must be appointed in accordance with the terms of the agreement under chapter 39.34 RCW for the joint operation of the district and shall serve four-year terms. Of the initial members, one must be appointed for a one-year term, one must be appointed for a two-year term, one must be appointed for a three-year term, and the remainder must be appointed for four-year terms.

(d)(i) A public facilities district created under subsection (1)(e) of this section must provide, in the agreement providing for its creation and operation, that the district must be governed by an odd-numbered board of directors of not more than nine members who are also members of the legislative authorities that created the public facilities district or of the governing boards of the public facilities districts previously created by those legislative authorities, or both.

(ii) A board of directors formed under this subsection must have an equal number of members representing each city or town participating in the public facilities district. If there are unfilled board member positions after each city or town has appointed an equal number of board members, the members so appointed must appoint a number of additional board members necessary to fill any remaining positions. For a board formed under this subsection to submit a proposition to the voters under RCW 82.14.048, a majority of the members representing or appointed by each legislative authority participating in the public facilities district must agree to submit the proposition to the voters((~~; however, the board may not submit a proposition to the voters prior to January 1, 2011~~)).

(4) A public facilities district is a municipal corporation, an independent taxing "authority" within the meaning of Article VII, section 1 of the state Constitution, and a "taxing district" within the meaning of Article VII, section 2 of the state Constitution.

(5) A public facilities district constitutes a body corporate and possesses all the usual powers of a corporation for public purposes as well as all other powers that may now or hereafter be specifically conferred by statute((,)) including, but not limited to, the authority to hire employees, staff, and services, to enter into contracts, and to sue and be sued.

(6) A public facilities district may acquire and transfer real and personal property by lease, sublease, purchase, or sale. No direct or collateral attack on any public facilities district purported to be authorized or created in conformance with this chapter may be commenced more than thirty days after creation by the city and/or county legislative authority.

Sec. 2. RCW 35.57.020 and 2019 c 341 s 1 are each amended to read as follows:

(1)(a) A public facilities district is authorized to acquire, construct, own, remodel, maintain, equip, reequip, repair, finance, and operate one or more regional centers. For purposes of this chapter, "regional center" means a convention, conference, or special events center, or any combination of facilities, and related parking facilities, serving a regional population constructed, improved, or rehabilitated after July 25, 1999, at a cost of at least ten million dollars, including debt service. "Regional center" also includes an existing convention, conference, or special events center, and related parking

facilities, serving a regional population, that is improved or rehabilitated after July 25, 1999, where the costs of improvement or rehabilitation are at least ten million dollars, including debt service. A "special events center" is a facility, available to the public, used for community events, sporting events, trade shows, and artistic, musical, theatrical, or other cultural exhibitions, presentations, or performances. A regional center is conclusively presumed to serve a regional population if state and local government investment in the construction, improvement, or rehabilitation of the regional center is equal to or greater than ten million dollars.

(b) A public facilities district created under RCW 35.57.010(1)(e):

(i) Is authorized, in addition to the authority granted under (a) of this subsection, to acquire, construct, own, remodel, maintain, equip, reequip, repair, finance, and operate one or more recreational facilities other than a ski area;

(ii) If exercising its authority under (a) or (b)(i) of this subsection, must obtain voter approval to fund each recreational facility or regional center pursuant to RCW 82.14.048(4)(a); and

(iii) Possesses all of the powers with respect to recreational facilities other than a ski area that all public facilities districts possess with respect to regional centers under subsections (3), (4), and (7) of this section.

(c) A public facilities district created under RCW 35.57.010(1)(a) by a city or town that participated in the creation of an additional public facilities district under RCW 35.57.010(1)(e):

(i) Is authorized, in addition to the authority granted under (a) of this subsection, to acquire, construct, own, remodel, maintain, equip, reequip, repair, finance, and operate one or more recreational facilities other than a ski area;

(ii) If exercising its authority under (c)(i) of this subsection, must obtain voter approval to fund each recreational facility pursuant to RCW 82.14.048(4)(a); and

(iii) Possesses all of the powers with respect to recreational facilities other than a ski area that all public facilities districts possess with respect to regional centers.

(d) A public facilities district created under RCW 35.57.010(1)(f) is authorized, in lieu of the authority granted under (a) of this subsection, to acquire, construct, own, remodel, maintain, equip, reequip, repair, finance, and operate regional aquatics and sports facilities, including the purchase, acquisition, construction, repairing, remodeling, and operation of community pools within the district. Additionally, a public facilities district created under RCW 35.57.010(1)(f) may provide funding for transportation improvements directly associated with facilitating motor vehicle and pedestrian access to regional aquatics and sports facilities, which includes funding for new construction, reconstruction, expansion, and maintenance of pedestrian trails, city streets, county roads, and state highways. However, the transportation improvements must be aligned with applicable state, regional, or local transportation plans.

(2) A public facilities district may enter into contracts with any city or town for the purpose of exercising any powers of a community renewal agency under chapter 35.81 RCW.

(3) A public facilities district may impose charges and fees for the use of its facilities, and may accept and expend or use gifts, grants, and donations for the purpose of a regional center.

(4) A public facilities district may impose charges, fees, and taxes authorized in RCW 35.57.040, and use revenues derived therefrom for the purpose of paying principal and interest payments on bonds issued by the public facilities district to construct a regional center.

(5) Notwithstanding the establishment of a career, civil, or merit service system, a public facilities district may contract with a public or private entity for the operation or management of its public facilities.

(6) A public facilities district is authorized to use the supplemental alternative public works contracting procedures set forth in chapter 39.10 RCW in connection with the design, construction, reconstruction, remodel, or alteration of any regional center.

(7) A city or town in conjunction with any special agency, authority, or other district established by a county or any other governmental agency is authorized to use the supplemental alternative public works contracting procedures set forth in chapter 39.10 RCW in connection with the design, construction, reconstruction, remodel, or alteration of any regional center funded in whole or in part by a public facilities district.

(8) Any provision required to be submitted for voter approval under this section((,)) may not be submitted for voter approval prior to January 1, 2011.

Sec. 3. RCW 82.14.048 and 2012 c 4 s 6 are each amended to read as follows:

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

(a) "Distressed public facilities district" means a public facilities district that has defaulted on bond anticipation notes or bonds in excess of forty million dollars on or before April 1, 2012; and

(b) "Anchor jurisdiction" means a city that has entered into an agreement to form a public facilities district under RCW 35.57.010(1)(c) that constitutes a distressed public facilities district under this chapter and in which the largest asset of such public facilities district is located.

(2)(a) The governing board of a public facilities district under chapter 36.100 or 35.57 RCW may submit an authorizing proposition to the voters of the district, and if the proposition is approved by a majority of persons voting, impose a sales and use tax in accordance with the terms of this chapter.

(b) In addition to the tax authorized pursuant to (a) of this subsection and in addition to any other authority conferred by law, the legislative authority of an anchor jurisdiction may impose a sales and use tax within the geographical boundaries of the anchor jurisdiction in accordance with the terms of this chapter without submitting an authorizing proposition to the voters of the anchor jurisdiction or the distressed public facilities district.

(3) The tax authorized in this section is in addition to any other taxes authorized by law and must be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the public facilities district. The rate of tax may not exceed two-tenths of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax. A public facilities district formed

under RCW 35.57.010(1)(e) may not impose the tax authorized under this section at a rate that exceeds two-tenths of one percent minus the rate of the highest tax authorized by this section that is imposed by any other public facilities district within its boundaries. A public facilities district formed under RCW 35.57.010(1)(f) may impose the tax authorized under this section at a rate of not more than two-tenths of one percent regardless of the tax imposed under this section by any other public facilities district within its boundaries. An anchor jurisdiction may impose the tax authorized by subsection (2)(b) of this section at a rate not to exceed two-tenths of one percent, regardless of whether any other public facilities district (including a distressed public facilities district) within its boundaries imposes the tax authorized by this section or the rate of such tax imposed by the public facilities district. If a public facilities district formed under RCW 35.57.010(1)(e) has imposed a tax under this section and issued or incurred obligations pledging that tax, so long as those obligations are outstanding no other public facilities district within its boundaries may thereafter impose a tax under this section at a rate that would reduce the rate of the tax that was pledged to the repayment of those obligations. A public facilities district that imposes a tax under this section is responsible for the payment of any costs incurred for the purpose of administering the provisions of this section, RCW 35.57.010(1)(e), and 35.57.020(1)(b), including any administrative costs associated with the imposition of the tax under this section incurred by either the department of revenue or local government, or both.

(4)(a) Moneys received by a public facilities district from any tax imposed by the public facilities district under the authority of this section must be used for the purpose of providing funds for the costs associated with the financing, refinancing, design, acquisition, construction, equipping, operating, maintaining, remodeling, repairing, and reequipping of its public facilities, and for transportation improvements directly associated with facilitating motor vehicle and pedestrian access to its public facilities to the extent allowed in RCW 35.57.020(1)(d).

(b) Moneys received by an anchor jurisdiction from any tax imposed by the anchor jurisdiction under the authority of this section must be used for the purpose of providing funds for the costs associated with the financing, refinancing, design, acquisition, construction, equipping, operating, maintaining, remodeling, repairing, and reequipping of the public facilities of the distressed public facilities district, and for all litigation, investigation, and related costs and expenses incurred by the anchor jurisdiction toward resolving matters related to the defaults of the distressed public facilities district. To the extent the distressed public facilities district owes money to an anchor jurisdiction, the anchor jurisdiction may apply money from the sales tax imposed under this section to any such obligations. Any sales tax imposed by an anchor jurisdiction under this section must terminate no later than thirty years after it is first imposed.

Sec. 4. RCW 35.57.030 and 1999 c 165 s 3 are each amended to read as follows:

(1) To carry out the purpose of this chapter, a public facilities district may issue general obligation bonds, not to exceed an amount, together with any outstanding nonvoter-approved general obligation indebtedness, equal to one-half of one percent of the value of the taxable property within the district, as the term "value of the taxable property" is defined in RCW 39.36.015. A facilities

district additionally may issue general obligation bonds for capital purposes only, together with any outstanding general obligation indebtedness, not to exceed an amount equal to one and one-fourth percent of the value of the taxable property within the district, as the term "value of the taxable property" is defined in RCW 39.36.015, when authorized by the voters of the public facilities district pursuant to Article VIII, section 6 of the state Constitution, and to provide for the retirement thereof by taxes authorized in chapter 165, Laws of 1999.

(2) General obligation bonds may be issued with a maturity of up to thirty years, and shall be issued and sold in accordance with the provisions of chapter 39.46 RCW.

(3) The general obligation bonds may be payable from the operating revenues of the public facilities district in addition to the tax receipts of the district.

(4) A public facilities district formed under RCW 35.57.010(1)(f) may not issue bonds under this section after July 1, 2023, if doing so would cause the scheduled annual principal and interest payments on the aggregate debt issued by the district under this section in any fiscal year to equal or exceed 80 percent of the annual tax revenue that the district projects, on or prior to the date of issuance of the bonds, to collect in such fiscal year under the sales and use tax authorized in RCW 82.14.048. Nothing in this section limits the amount of revenue that a public facilities district may use to make principal and interest payments on the aggregate debt issued by the district under this section.

Passed by the Senate April 13, 2023.
Passed by the House April 12, 2023.
Approved by the Governor May 1, 2023.
Filed in Office of Secretary of State May 2, 2023.

CHAPTER 219

[Senate Bill 5065]

BONE MARROW DONATION—PUBLIC SCHOOL INSTRUCTION

AN ACT Relating to public school instruction in awareness of bone marrow donation; adding a new section to chapter 28A.210 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature recognizes that it has previously found that every three minutes an American child or adult is diagnosed with a potentially fatal blood disease. For many of these individuals, bone marrow transplantation is the only chance for survival. The legislature finds that 70 percent of patients do not have a fully matched donor in their family and rely on a registry to find an unrelated donor. The legislature further finds that 40 to 71 percent of individuals with diverse heritage never find a bone marrow match. The ultimate key to survivability lies in increasing the number of bone marrow donors across all ethnicities, which will increase the potential for a suitable match.

(2) It is the intent of the legislature to continue to increase awareness of bone marrow donation by encouraging school districts, charter schools, and state-tribal compact schools to offer instruction on this topic to high school students in at least one health class necessary for graduation. The legislature also

intends for this instruction to be optional for elementary and middle school students.

NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.210 RCW to read as follows:

(1) Each school district, charter school, and state-tribal education compact school that serves students in any of grades nine through 12 is encouraged to offer instruction in awareness of bone marrow donation to students as provided in this section. Beginning with the 2023-24 school year, instruction in awareness of bone marrow donation may be included in at least one health class necessary for graduation.

(2)(a) Instruction in awareness of bone marrow donation under this section must be an instructional program provided by the national marrow donor program or other relevant nationally recognized organization.

(b) The office of the superintendent of public instruction must post on its website a link to the instructional program described in this subsection (2).

(3) Each school district, charter school, and state-tribal education compact school that serves students in any of grades kindergarten through eight may offer instruction in awareness of bone marrow donation to students. The instruction described in subsection (2) of this section may be adapted to be age appropriate.

(4) School districts, charter schools, and state-tribal education compact schools may offer the instruction in awareness of bone marrow donation directly or arrange for the instruction to be provided by available community-based providers. The instruction does not have to be provided by certificated instructional staff.

Passed by the Senate April 13, 2023.
Passed by the House March 20, 2023.
Approved by the Governor May 1, 2023.
Filed in Office of Secretary of State May 2, 2023.

CHAPTER 220

[Engrossed Second Substitute Senate Bill 5080]

SOCIAL EQUITY IN CANNABIS PROGRAM—VARIOUS PROVISIONS

AN ACT Relating to expanding and improving the social equity in cannabis program; amending RCW 43.330.540, 69.50.331, 69.50.335, 69.50.345, and 69.50.345; reenacting and amending RCW 69.50.101; creating a new section; providing an effective date; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 43.330.540 and 2022 c 16 s 36 are each amended to read as follows:

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

(2)(a) The cannabis social equity technical assistance grant program must award grants to:

(i) Cannabis license applicants who are social equity applicants as defined in RCW 69.50.335 submitting social equity plans ((~~under RCW 69.50.335~~)) as defined in RCW 69.50.101; and

(ii) Cannabis licensees holding a license issued after ((~~June 30, 2020, and before July 25, 2021~~)) April 1, 2023, and before July 1, 2024, who meet the social equity applicant criteria under RCW 69.50.335.

(b) Grant recipients under this subsection (2) must demonstrate completion of their project within 12 months of receiving a grant, unless a grant recipient requests, and the department approves, additional time to complete the project.

(3) The department must award grants primarily based on the strength of the social equity plans submitted by cannabis license applicants and cannabis licensees holding a license issued after ((~~June 30, 2020~~)) April 1, 2023, and before ((~~July 25, 2021~~)) July 1, 2024, but may also consider additional criteria if deemed necessary or appropriate by the department. Technical assistance activities eligible for funding include, but are not limited to:

(a) Assistance navigating the cannabis licensure process;

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

(c) Regulatory compliance training;

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

(e) Strengthening a social equity plan as defined in RCW 69.50.101; and

(f) Connecting social equity applicants with established industry members and tribal cannabis enterprises and programs for mentoring and other forms of support.

(4) The department may contract to establish a roster of mentors who are available to support and advise social equity applicants and current licensees who meet the social equity applicant criteria under RCW 69.50.335. Contractors under this section must:

(a) Have knowledge and experience demonstrating their ability to effectively advise eligible applicants and licensees in navigating the state's licensing and regulatory framework or on producing and processing cannabis;

(b) Be a business that is at least 51 percent minority or woman-owned; and

(c) Meet department reporting and invoicing requirements.

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

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

(7) For the purposes of this section, "cannabis" has the meaning provided under RCW 69.50.101.

Sec. 2. RCW 69.50.331 and 2022 c 16 s 58 are each amended to read as follows:

(1) For the purpose of considering any application for a license to produce, process, research, transport, or deliver cannabis, useable cannabis, cannabis concentrates, or cannabis-infused products subject to the regulations established under RCW 69.50.385, or sell cannabis, or for the renewal of a license to produce, process, research, transport, or deliver cannabis, useable cannabis, cannabis concentrates, or cannabis-infused products subject to the regulations established under RCW 69.50.385, or sell cannabis, the board must conduct a comprehensive, fair, and impartial evaluation of the applications timely received.

(a) The board may cause an inspection of the premises to be made, and may inquire into all matters in connection with the construction and operation of the

premises. For the purpose of reviewing any application for a license and for considering the denial, suspension, revocation, cancellation, or renewal or denial thereof, of any license, the board may consider any prior criminal arrests or convictions of the applicant, any public safety administrative violation history record with the board, and a criminal history record information check. The board may submit the criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The board must require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation. The provisions of RCW 9.95.240 and of chapter 9.96A RCW do not apply to these cases. Subject to the provisions of this section, the board may, in its discretion, grant or deny the renewal or license applied for. Denial may be based on, without limitation, the existence of chronic illegal activity documented in objections submitted pursuant to subsections (7)(c) and (10) of this section. Authority to approve an uncontested or unopposed license may be granted by the board to any staff member the board designates in writing. Conditions for granting this authority must be adopted by rule.

(b) No license of any kind may be issued to:

(i) A person under the age of ((~~twenty-one~~)) 21 years;

(ii) A person doing business as a sole proprietor who has not lawfully resided in the state for at least six months prior to applying to receive a license;

(iii) A partnership, employee cooperative, association, nonprofit corporation, or corporation unless formed under the laws of this state, and unless all of the members thereof are qualified to obtain a license as provided in this section; or

(iv) A person whose place of business is conducted by a manager or agent, unless the manager or agent possesses the same qualifications required of the licensee.

(2)(a) The board may, in its discretion, subject to RCW 43.05.160, 69.50.563, 69.50.562, 69.50.334, and 69.50.342(3) suspend or cancel any license; and all protections of the licensee from criminal or civil sanctions under state law for producing, processing, researching, or selling cannabis, cannabis concentrates, useable cannabis, or cannabis-infused products thereunder must be suspended or terminated, as the case may be.

(b) The board must immediately suspend the license of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license is automatic upon the board's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

(c) The board may request the appointment of administrative law judges under chapter 34.12 RCW who shall have power to administer oaths, issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents, and testimony, examine witnesses, receive testimony in any inquiry, investigation, hearing, or proceeding in any part of the state, and

consider mitigating and aggravating circumstances in any case and deviate from any prescribed penalty, under rules the board may adopt.

(d) Witnesses must be allowed fees and mileage each way to and from any inquiry, investigation, hearing, or proceeding at the rate authorized by RCW 34.05.446. Fees need not be paid in advance of appearance of witnesses to testify or to produce books, records, or other legal evidence.

(e) In case of disobedience of any person to comply with the order of the board or a subpoena issued by the board, or any of its members, or administrative law judges, or on the refusal of a witness to testify to any matter regarding which he or she may be lawfully interrogated, the judge of the superior court of the county in which the person resides, on application of any member of the board or administrative law judge, compels obedience by contempt proceedings, as in the case of disobedience of the requirements of a subpoena issued from said court or a refusal to testify therein.

(3) Upon receipt of notice of the suspension or cancellation of a license, the licensee must forthwith deliver up the license to the board. Where the license has been suspended only, the board must return the license to the licensee at the expiration or termination of the period of suspension. The board must notify all other licensees in the county where the subject licensee has its premises of the suspension or cancellation of the license; and no other licensee or employee of another licensee may allow or cause any cannabis, cannabis concentrates, useable cannabis, or cannabis-infused products to be delivered to or for any person at the premises of the subject licensee.

(4) Every license issued under this chapter is subject to all conditions and restrictions imposed by this chapter or by rules adopted by the board to implement and enforce this chapter. All conditions and restrictions imposed by the board in the issuance of an individual license must be listed on the face of the individual license along with the trade name, address, and expiration date.

(5) Every licensee must post and keep posted its license, or licenses, in a conspicuous place on the premises.

(6) No licensee may employ any person under the age of ((~~twenty-one~~)) 21 years.

(7)(a) Before the board issues a new or renewed license to an applicant it must give notice of the application to the chief executive officer of the incorporated city or town, if the application is for a license within an incorporated city or town, or to the county legislative authority, if the application is for a license outside the boundaries of incorporated cities or towns, or to the tribal government if the application is for a license within Indian country, or to the port authority if the application for a license is located on property owned by a port authority.

(b) The incorporated city or town through the official or employee selected by it, the county legislative authority or the official or employee selected by it, the tribal government, or port authority has the right to file with the board within twenty days after the date of transmittal of the notice for applications, or at least thirty days prior to the expiration date for renewals, written objections against the applicant or against the premises for which the new or renewed license is asked. The board may extend the time period for submitting written objections upon request from the authority notified by the board.

(c) The written objections must include a statement of all facts upon which the objections are based, and in case written objections are filed, the city or town or county legislative authority may request, and the board may in its discretion hold, a hearing subject to the applicable provisions of Title 34 RCW. If the board makes an initial decision to deny a license or renewal based on the written objections of an incorporated city or town or county legislative authority, the applicant may request a hearing subject to the applicable provisions of Title 34 RCW. If a hearing is held at the request of the applicant, board representatives must present and defend the board's initial decision to deny a license or renewal.

(d) Upon the granting of a license under this title the board must send written notification to the chief executive officer of the incorporated city or town in which the license is granted, or to the county legislative authority if the license is granted outside the boundaries of incorporated cities or towns.

(8)(a) Except as provided in (b) through (e) of this subsection, the board may not issue a license for any premises within ((~~one thousand~~)) 1,000 feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged ((~~twenty-one~~)) 21 years or older.

(b) A city, county, or town may permit the licensing of premises within ((~~one thousand~~)) 1,000 feet but not less than ((~~one hundred~~)) 100 feet of the facilities described in (a) of this subsection, except elementary schools, secondary schools, and playgrounds, by enacting an ordinance authorizing such distance reduction, provided that such distance reduction will not negatively impact the jurisdiction's civil regulatory enforcement, criminal law enforcement interests, public safety, or public health.

(c) A city, county, or town may permit the licensing of research premises allowed under RCW 69.50.372 within ((~~one thousand~~)) 1,000 feet but not less than ((~~one hundred~~)) 100 feet of the facilities described in (a) of this subsection by enacting an ordinance authorizing such distance reduction, provided that the ordinance will not negatively impact the jurisdiction's civil regulatory enforcement, criminal law enforcement, public safety, or public health.

(d) The board may license premises located in compliance with the distance requirements set in an ordinance adopted under (b) or (c) of this subsection. Before issuing or renewing a research license for premises within ((~~one thousand~~)) 1,000 feet but not less than ((~~one hundred~~)) 100 feet of an elementary school, secondary school, or playground in compliance with an ordinance passed pursuant to (c) of this subsection, the board must ensure that the facility:

(i) Meets a security standard exceeding that which applies to cannabis producer, processor, or retailer licensees;

(ii) Is inaccessible to the public and no part of the operation of the facility is in view of the general public; and

(iii) Bears no advertising or signage indicating that it is a cannabis research facility.

(e) The board must issue a certificate of compliance if the premises met the requirements under (a), (b), (c), or (d) of this subsection on the date of the application. The certificate allows the licensee to operate the business at the proposed location notwithstanding a later occurring, otherwise disqualifying factor.

(f) The board may not issue a license for any premises within Indian country, as defined in 18 U.S.C. Sec. 1151, including any fee patent lands within the exterior boundaries of a reservation, without the consent of the federally recognized tribe associated with the reservation or Indian country.

(9) A city, town, or county may adopt an ordinance prohibiting a cannabis producer or cannabis processor from operating or locating a business within areas zoned primarily for residential use or rural use with a minimum lot size of five acres or smaller.

(10) In determining whether to grant or deny a license or renewal of any license, the board must give substantial weight to objections from an incorporated city or town or county legislative authority based upon chronic illegal activity associated with the applicant's operations of the premises proposed to be licensed or the applicant's operation of any other licensed premises, or the conduct of the applicant's patrons inside or outside the licensed premises. "Chronic illegal activity" means (a) a pervasive pattern of activity that threatens the public health, safety, and welfare of the city, town, or county including, but not limited to, open container violations, assaults, disturbances, disorderly conduct, or other criminal law violations, or as documented in crime statistics, police reports, emergency medical response data, calls for service, field data, or similar records of a law enforcement agency for the city, town, county, or any other municipal corporation or any state agency; or (b) an unreasonably high number of citations for violations of RCW 46.61.502 associated with the applicant's or licensee's operation of any licensed premises as indicated by the reported statements given to law enforcement upon arrest.

(11) The board may not issue a cannabis retail license for any premises not currently licensed if:

(a) The board receives a written objection from the legislative authority of an incorporated city or town, or county legislative authority, relating to the physical location of the proposed premises;

(b) The objection to the location from the incorporated city or town, or county legislative authority, is received by the board within 20 days of the board notifying the incorporated city or town, or county legislative authority, of the proposed cannabis retail location; and

(c) The objection to the issuance of a cannabis retail license at the specified location is based on a preexisting local ordinance limiting outlet density in a specific geographic area. For purposes of this subsection (11), a preexisting local ordinance is an ordinance enacted and in effect before the date the applicant submits an application for a cannabis retail license to the board identifying the premises proposed to be licensed. No objection related to the physical location of a proposed premises may be made by a local government under this subsection (11) based on a local ordinance enacted after the date the applicant submits an application for a cannabis retail license to the board identifying the premises proposed to be licensed.

(12) After January 1, 2024, all cannabis licensees are encouraged but are not required to submit a social equity plan to the board. Upon confirmation by the board that a cannabis licensee who is not a social equity applicant, and who does not hold a social equity license issued under RCW 69.50.335, has submitted a social equity plan, the board must within 30 days reimburse such a licensee an amount equal to the cost of the licensee's annual cannabis license renewal fee.

The license renewal fee reimbursement authorized under this subsection is subject to the following limitations:

(a) The board may provide reimbursement one time only to any licensed entity; and

(b) Any licensed entity holding more than one cannabis license is eligible for reimbursement of the license renewal fee on only one license.

Sec. 3. RCW 69.50.335 and 2022 c 16 s 60 are each amended to read as follows:

(1)(a) Beginning December 1, 2020, and until July 1, ((~~2029~~)) 2032, cannabis retailer licenses, cannabis processor licenses, and cannabis producer licenses that have been subject to forfeiture, revocation, or cancellation by the board, or cannabis retailer licenses that were not previously issued by the board but could have been issued without exceeding the limit on the statewide number of cannabis retailer licenses established before January 1, 2020, by the board, may be issued or reissued to an applicant who meets the cannabis retailer license, cannabis processor license, or cannabis producer license requirements of this chapter.

(b) In accordance with (a) of this subsection, the board may issue or reissue:

(i) Up to 100 cannabis processor licenses immediately; and

(ii) Beginning January 1, 2025, up to 10 cannabis producer licenses, which must be issued in conjunction with a cannabis processor license.

(c) In addition to the cannabis retailer licenses and cannabis producer licenses that may be issued under (a) and (b) of this subsection, beginning January 1, 2023, and continuing every three years until July 1, 2032, the board may, with the approval of the legislature through the passage of a bill, increase the number of cannabis retailer licenses and cannabis producer licenses for the social equity program based on:

(i) The most recent census data available as of January 1, 2023; and

(ii) The annual population estimates published by the office of financial management.

(d) In addition to the cannabis retailer licenses that may be issued under (a) of this subsection, beginning January 1, 2024, and until July 1, 2032, the board may issue up to 52 cannabis retailer licenses for the social equity program.

(e)(i) At the time of licensure, all licenses issued under the social equity program under this section may be located in any city, town, or county in the state that allows cannabis retail, cannabis production, or cannabis processing business activities, as applicable, at the proposed location, regardless of:

(A) Whether a cannabis retailer license, cannabis producer license, or cannabis processor license was originally allocated to or issued in another city, town, or county; and

(B) The maximum number of retail cannabis licenses established by the board for each county under RCW 69.50.345.

(ii) The board must adopt rules establishing a threshold of the number of licenses created by this section that can be located in each county.

(f) After a social equity license has been issued under this section for a specific location, the location of the licensed business may not be moved to a city, town, or county different from the city, town, or county for which it was initially licensed.

(2)(a) In order to be considered for a ((~~retail~~)) cannabis retailer license, cannabis processor license, or cannabis producer license under subsection (1) of this section, an applicant must be a social equity applicant and submit ((~~a social equity plan along with other cannabis retailer license application requirements~~)) required cannabis license materials to the board. If the application proposes ownership by more than one person, then at least ((~~fifty-one~~)) 51 percent of the proposed ownership structure must reflect the qualifications of a social equity applicant.

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

(3)(a) In determining the priority for issuance of a license among applicants, the board ((~~may prioritize applicants based on the extent to which the application addresses the components of the social equity plan~~)) must select a third-party contractor to identify and score social equity applicants, using a scoring rubric developed by the board. The board must rely on the score provided by the third-party contractor in issuing licenses.

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

(i) The board determines that((~~:~~

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

~~(ii) The application does not otherwise meet the licensing requirements of this chapter~~)), upon the advice of the third-party contractor, the application does not meet the social equity licensing requirements of this chapter; or

(ii) The board determines the application does not otherwise meet licensing requirements.

(4) The board ((~~may~~)) must adopt rules to implement this section. ((~~Rules may include strategies for receiving~~)) Prior to adopting any rule implementing this section, the board must consider advice on the social equity program from individuals the program is intended to benefit. Rules may also require that licenses awarded under this section only be transferred to or ((~~sold only to~~)) assumed by individuals or groups of individuals who comply with the requirements for initial licensure as a social equity applicant ((~~with a social equity plan under this section~~)) for a period of at least five years from the date of initial licensure.

(5) The annual fee for issuance, reissuance, or renewal for any license under this section must be ((~~equal to the fee established in RCW 69.50.325~~)) waived through July 1, 2032.

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

(a) "Disproportionately impacted area" means a census tract or comparable geographic area ((~~that satisfies the following criteria, which may be further defined in rule by the board after consultation with the commission on African American affairs and other agencies, commissions, and community members as determined by the board:~~

~~(i) The area has a high poverty rate;~~

~~(ii) The area has a high rate of participation in income-based federal or state programs~~)) within Washington state where community members were more likely to be impacted by the war on drugs. These areas must be determined in rule by the board, in consultation with the office of equity, using a standardized statistical equation to identify areas with demographic indicators consistent with populations most impacted by the war on drugs. These areas must be assessed to account for demographic changes in the composition of the population over time. Disproportionately impacted areas must include census tracts or comparable geographic areas in the top 15th percentile in at least two of the following demographic indicators of populations most impacted by the war on drugs:

(i) The area has a high rate of people living under the federal poverty level;

(ii) The area has a high rate of people who did not graduate from high school;

(iii) The area has a high rate of unemployment; ((~~and~~)) or

(iv) The area has a high rate of ((~~arrest, conviction, or incarceration related to the sale, possession, use, cultivation, manufacture, or transport of cannabis~~)) people receiving public assistance.

(b) "Social equity applicant" means((~~:~~

~~(i) An applicant who has at least fifty-one percent ownership and control by one or more individuals who have resided in a disproportionately impacted area for a period of time defined in rule by the board after consultation with the commission on African American affairs and other commissions, agencies, and community members as determined by the board;~~

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

~~(iii) An applicant who meets criteria defined in rule by the board after consultation with the commission on African American affairs and other commissions, agencies, and community members as determined by the board~~)) an applicant who has at least 51 percent ownership and control by one or more individuals who meet at least two of the following qualifications:

(i) Lived in a disproportionately impacted area in Washington state for a minimum of five years between 1980 and 2010;

(ii) Has been arrested or convicted of a cannabis offense or has a family member who has been arrested or convicted of a cannabis offense;

(iii) Had a household income in the year prior to submitting an application under this section that was less than the median household income within the state of Washington as calculated by the United States census bureau; or

(iv) Is both a socially and economically disadvantaged individual as defined by the office of minority and women's business enterprises under chapter 39.19 RCW.

(c) "Social equity goals" means:

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

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

~~(((d) "Social equity plan" means a plan that addresses at least some of the elements outlined in this subsection (6)(d), along with any additional plan components or requirements approved by the board following consultation with the task force created in RCW 69.50.336. The plan may include:~~

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

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

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

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

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

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

(7) Except for the process detailed in subsection (1) of this section, the process for creating new cannabis retail licenses under this chapter remains unaltered.

Sec. 4. RCW 69.50.345 and 2022 c 16 s 64 are each amended to read as follows:

The board, subject to the provisions of this chapter, must adopt rules that establish the procedures and criteria necessary to implement the following:

(1) Licensing of cannabis producers, cannabis processors, and cannabis retailers, including prescribing forms and establishing application, reinstatement, and renewal fees.

(a) Application forms for cannabis producers must request the applicant to state whether the applicant intends to produce cannabis for sale by cannabis retailers holding medical cannabis endorsements and the amount of or percentage of canopy the applicant intends to commit to growing plants determined by the department under RCW 69.50.375 to be of a THC concentration, CBD concentration, or THC to CBD ratio appropriate for cannabis concentrates, useable cannabis, or cannabis-infused products sold to qualifying patients.

(b) The board must reconsider and increase limits on the amount of square feet permitted to be in production on July 24, 2015, and increase the percentage of production space for those cannabis producers who intend to grow plants for cannabis retailers holding medical cannabis endorsements if the cannabis producer designates the increased production space to plants determined by the department under RCW 69.50.375 to be of a THC concentration, CBD concentration, or THC to CBD ratio appropriate for cannabis concentrates, useable cannabis, or cannabis-infused products to be sold to qualifying patients. If current cannabis producers do not use all the increased production space, the board may reopen the license period for new cannabis producer license applicants but only to those cannabis producers who agree to grow plants for

cannabis retailers holding medical cannabis endorsements. Priority in licensing must be given to cannabis producer license applicants who have an application pending on July 24, 2015, but who are not yet licensed and then to new cannabis producer license applicants. After January 1, 2017, any reconsideration of the limits on the amount of square feet permitted to be in production to meet the medical needs of qualifying patients must consider information contained in the medical cannabis authorization database established in RCW 69.51A.230;

(2) ((~~Determining~~)) (a) Except as provided in RCW 69.50.335, determining, in consultation with the office of financial management, the maximum number of retail outlets that may be licensed in each county, taking into consideration:

(((~~(a)~~))) (i) Population distribution;

(((~~(b)~~))) (ii) Security and safety issues;

(((~~(c)~~))) (iii) The provision of adequate access to licensed sources of cannabis concentrates, useable cannabis, and cannabis-infused products to discourage purchases from the illegal market; and

(((~~(d)~~))) (iv) The number of retail outlets holding medical cannabis endorsements necessary to meet the medical needs of qualifying patients. The board must reconsider and increase the maximum number of retail outlets it established before July 24, 2015, and allow for a new license application period and a greater number of retail outlets to be permitted in order to accommodate the medical needs of qualifying patients and designated providers. After January 1, 2017, any reconsideration of the maximum number of retail outlets needed to meet the medical needs of qualifying patients must consider information contained in the medical cannabis authorization database established in RCW 69.51A.230.

(b)(i) In making the determination under (a) of this subsection, the board must consider written input from an incorporated city or town, or county legislative authority when evaluating concerns related to outlet density.

(ii) An incorporated city or town, or county legislative authority, may enact an ordinance prescribing outlet density limitations. An ordinance may not affect licenses issued before the effective date of the ordinance prescribing outlet density limitations.

(iii) The board may adopt rules to identify how local jurisdiction input will be evaluated;

(3) Determining the maximum quantity of cannabis a cannabis producer may have on the premises of a licensed location at any time without violating Washington state law;

(4) Determining the maximum quantities of cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products a cannabis processor may have on the premises of a licensed location at any time without violating Washington state law;

(5) Determining the maximum quantities of cannabis concentrates, useable cannabis, and cannabis-infused products a cannabis retailer may have on the premises of a retail outlet at any time without violating Washington state law;

(6) In making the determinations required by this section, the board shall take into consideration:

(a) Security and safety issues;

(b) The provision of adequate access to licensed sources of cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products to discourage purchases from the illegal market; and

(c) Economies of scale, and their impact on licensees' ability to both comply with regulatory requirements and undercut illegal market prices;

(7) Determining the nature, form, and capacity of all containers to be used by licensees to contain cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products, and their labeling requirements;

(8) In consultation with the department of agriculture and the department, establishing classes of cannabis, cannabis concentrates, useable cannabis, and cannabis infused products according to grade, condition, cannabinoid profile, THC concentration, CBD concentration, or other qualitative measurements deemed appropriate by the board;

(9) Establishing reasonable time, place, and manner restrictions and requirements regarding advertising of cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products that are not inconsistent with the provisions of this chapter, taking into consideration:

(a) Federal laws relating to cannabis that are applicable within Washington state;

(b) Minimizing exposure of people under twenty-one years of age to the advertising;

(c) The inclusion of medically and scientifically accurate information about the health and safety risks posed by cannabis use in the advertising; and

(d) Ensuring that retail outlets with medical cannabis endorsements may advertise themselves as medical retail outlets;

(10) Specifying and regulating the time and periods when, and the manner, methods, and means by which, licensees shall transport and deliver cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products within the state;

(11) In consultation with the department and the department of agriculture, establishing accreditation requirements for testing laboratories used by licensees to demonstrate compliance with standards adopted by the board, and prescribing methods of producing, processing, and packaging cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products; conditions of sanitation; and standards of ingredients, quality, and identity of cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products produced, processed, packaged, or sold by licensees;

(12) Specifying procedures for identifying, seizing, confiscating, destroying, and donating to law enforcement for training purposes all cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products produced, processed, packaged, labeled, or offered for sale in this state that do not conform in all respects to the standards prescribed by this chapter or the rules of the board.

Sec. 5. RCW 69.50.345 and 2022 c 16 s 65 are each amended to read as follows:

The board, subject to the provisions of this chapter, must adopt rules that establish the procedures and criteria necessary to implement the following:

(1) Licensing of cannabis producers, cannabis processors, and cannabis retailers, including prescribing forms and establishing application, reinstatement, and renewal fees.

(a) Application forms for cannabis producers must request the applicant to state whether the applicant intends to produce cannabis for sale by cannabis retailers holding medical cannabis endorsements and the amount of or percentage of canopy the applicant intends to commit to growing plants determined by the department under RCW 69.50.375 to be of a THC concentration, CBD concentration, or THC to CBD ratio appropriate for cannabis concentrates, useable cannabis, or cannabis-infused products sold to qualifying patients.

(b) The board must reconsider and increase limits on the amount of square feet permitted to be in production on July 24, 2015, and increase the percentage of production space for those cannabis producers who intend to grow plants for cannabis retailers holding medical cannabis endorsements if the cannabis producer designates the increased production space to plants determined by the department under RCW 69.50.375 to be of a THC concentration, CBD concentration, or THC to CBD ratio appropriate for cannabis concentrates, useable cannabis, or cannabis-infused products to be sold to qualifying patients. If current cannabis producers do not use all the increased production space, the board may reopen the license period for new cannabis producer license applicants but only to those cannabis producers who agree to grow plants for cannabis retailers holding medical cannabis endorsements. Priority in licensing must be given to cannabis producer license applicants who have an application pending on July 24, 2015, but who are not yet licensed and then to new cannabis producer license applicants. After January 1, 2017, any reconsideration of the limits on the amount of square feet permitted to be in production to meet the medical needs of qualifying patients must consider information contained in the medical cannabis authorization database established in RCW 69.51A.230;

(2) ((~~Determining~~)) (a) Except as provided in RCW 69.50.335, determining, in consultation with the office of financial management, the maximum number of retail outlets that may be licensed in each county, taking into consideration:

(((~~(a)~~))) (i) Population distribution;

(((~~(b)~~))) (ii) Security and safety issues;

(((~~(c)~~))) (iii) The provision of adequate access to licensed sources of cannabis concentrates, useable cannabis, and cannabis-infused products to discourage purchases from the illegal market; and

(((~~(d)~~))) (iv) The number of retail outlets holding medical cannabis endorsements necessary to meet the medical needs of qualifying patients. The board must reconsider and increase the maximum number of retail outlets it established before July 24, 2015, and allow for a new license application period and a greater number of retail outlets to be permitted in order to accommodate the medical needs of qualifying patients and designated providers. After January 1, 2017, any reconsideration of the maximum number of retail outlets needed to meet the medical needs of qualifying patients must consider information contained in the medical cannabis authorization database established in RCW 69.51A.230.

(b)(i) In making the determination under (a) of this subsection, the board must consider written input from an incorporated city or town, or county legislative authority when evaluating concerns related to outlet density.

(ii) An incorporated city or town, or county legislative authority, may enact an ordinance prescribing outlet density limitations. An ordinance may not affect licenses issued before the effective date of the ordinance prescribing outlet density limitations.

(iii) The board may adopt rules to identify how local jurisdiction input will be evaluated;

(3) Determining the maximum quantity of cannabis a cannabis producer may have on the premises of a licensed location at any time without violating Washington state law;

(4) Determining the maximum quantities of cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products a cannabis processor may have on the premises of a licensed location at any time without violating Washington state law;

(5) Determining the maximum quantities of cannabis concentrates, useable cannabis, and cannabis-infused products a cannabis retailer may have on the premises of a retail outlet at any time without violating Washington state law;

(6) In making the determinations required by this section, the board shall take into consideration:

(a) Security and safety issues;

(b) The provision of adequate access to licensed sources of cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products to discourage purchases from the illegal market; and

(c) Economies of scale, and their impact on licensees' ability to both comply with regulatory requirements and undercut illegal market prices;

(7) Determining the nature, form, and capacity of all containers to be used by licensees to contain cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products, and their labeling requirements;

(8) In consultation with the department of agriculture and the department, establishing classes of cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products according to grade, condition, cannabinoid profile, THC concentration, CBD concentration, or other qualitative measurements deemed appropriate by the board;

(9) Establishing reasonable time, place, and manner restrictions and requirements regarding advertising of cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products that are not inconsistent with the provisions of this chapter, taking into consideration:

(a) Federal laws relating to cannabis that are applicable within Washington state;

(b) Minimizing exposure of people under ((~~twenty-one~~)) 21 years of age to the advertising;

(c) The inclusion of medically and scientifically accurate information about the health and safety risks posed by cannabis use in the advertising; and

(d) Ensuring that retail outlets with medical cannabis endorsements may advertise themselves as medical retail outlets;

(10) Specifying and regulating the time and periods when, and the manner, methods, and means by which, licensees shall transport and deliver cannabis,

cannabis concentrates, useable cannabis, and cannabis-infused products within the state;

(11) In consultation with the department and the department of agriculture, prescribing methods of producing, processing, and packaging cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products; conditions of sanitation; and standards of ingredients, quality, and identity of cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products produced, processed, packaged, or sold by licensees;

(12) Specifying procedures for identifying, seizing, confiscating, destroying, and donating to law enforcement for training purposes all cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products produced, processed, packaged, labeled, or offered for sale in this state that do not conform in all respects to the standards prescribed by this chapter or the rules of the board.

Sec. 6. RCW 69.50.101 and 2022 c 16 s 51 are each reenacted and amended to read as follows:

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

(a) "Administer" means to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:

(1) a practitioner authorized to prescribe (or, by the practitioner's authorized agent); or

(2) the patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseperson, or employee of the carrier or warehouseperson.

(c) "Board" means the Washington state liquor and cannabis board.

(d) "Cannabis" means all parts of the plant *Cannabis*, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include:

(1) The mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination; or

(2) Hemp or industrial hemp as defined in RCW 15.140.020, seeds used for licensed hemp production under chapter 15.140 RCW.

(e) "Cannabis concentrates" means products consisting wholly or in part of the resin extracted from any part of the plant *Cannabis* and having a THC concentration greater than ten percent.

(f) "Cannabis processor" means a person licensed by the board to process cannabis into cannabis concentrates, useable cannabis, and cannabis-infused products, package and label cannabis concentrates, useable cannabis, and cannabis-infused products for sale in retail outlets, and sell cannabis

concentrates, useable cannabis, and cannabis-infused products at wholesale to cannabis retailers.

(g) "Cannabis producer" means a person licensed by the board to produce and sell cannabis at wholesale to cannabis processors and other cannabis producers.

(h) "Cannabis products" means useable cannabis, cannabis concentrates, and cannabis-infused products as defined in this section.

(i) "Cannabis researcher" means a person licensed by the board to produce, process, and possess cannabis for the purposes of conducting research on cannabis and cannabis-derived drug products.

(j) "Cannabis retailer" means a person licensed by the board to sell cannabis concentrates, useable cannabis, and cannabis-infused products in a retail outlet.

(k) "Cannabis-infused products" means products that contain cannabis or cannabis extracts, are intended for human use, are derived from cannabis as defined in subsection (d) of this section, and have a THC concentration no greater than ten percent. The term "cannabis-infused products" does not include either useable cannabis or cannabis concentrates.

(l) "CBD concentration" has the meaning provided in RCW 69.51A.010.

(m) "CBD product" means any product containing or consisting of cannabidiol.

(n) "Commission" means the pharmacy quality assurance commission.

(o) "Controlled substance" means a drug, substance, or immediate precursor included in Schedules I through V as set forth in federal or state laws, or federal or commission rules, but does not include hemp or industrial hemp as defined in RCW 15.140.020.

(p)(1) "Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and:

(i) that has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; or

(ii) with respect to a particular individual, that the individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II.

(2) The term does not include:

(i) a controlled substance;

(ii) a substance for which there is an approved new drug application;

(iii) a substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the federal food, drug, and cosmetic act, 21 U.S.C. Sec. 355, or chapter 69.77 RCW to the extent conduct with respect to the substance is pursuant to the exemption; or

(iv) any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance.

(q) "Deliver" or "delivery" means the actual or constructive transfer from one person to another of a substance, whether or not there is an agency relationship.

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

(s) "Designated provider" has the meaning provided in RCW 69.51A.010.

(t) "Dispense" means the interpretation of a prescription or order for a controlled substance and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(u) "Dispenser" means a practitioner who dispenses.

(v) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(w) "Distributor" means a person who distributes.

(x) "Drug" means (1) a controlled substance recognized as a drug in the official United States pharmacopoeia/national formulary or the official homeopathic pharmacopoeia of the United States, or any supplement to them; (2) controlled substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals; (3) controlled substances (other than food) intended to affect the structure or any function of the body of individuals or animals; and (4) controlled substances intended for use as a component of any article specified in (1), (2), or (3) of this subsection. The term does not include devices or their components, parts, or accessories.

(y) "Drug enforcement administration" means the drug enforcement administration in the United States Department of Justice, or its successor agency.

(z) "Electronic communication of prescription information" means the transmission of a prescription or refill authorization for a drug of a practitioner using computer systems. The term does not include a prescription or refill authorization verbally transmitted by telephone nor a facsimile manually signed by the practitioner.

(aa) "Immature plant or clone" means a plant or clone that has no flowers, is less than twelve inches in height, and is less than twelve inches in diameter.

(bb) "Immediate precursor" means a substance:

(1) that the commission has found to be and by rule designates as being the principal compound commonly used, or produced primarily for use, in the manufacture of a controlled substance;

(2) that is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance; and

(3) the control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.

(cc) "Isomer" means an optical isomer, but in subsection (gg)(5) of this section, RCW 69.50.204(a) (12) and (34), and 69.50.206(b)(4), the term includes any geometrical isomer; in RCW 69.50.204(a) (8) and (42), and 69.50.210(c) the term includes any positional isomer; and in RCW 69.50.204(a)(35), 69.50.204(c), and 69.50.208(a) the term includes any positional or geometric isomer.

(dd) "Lot" means a definite quantity of cannabis, cannabis concentrates, useable cannabis, or cannabis-infused product identified by a lot number, every portion or package of which is uniform within recognized tolerances for the factors that appear in the labeling.

(ee) "Lot number" must identify the licensee by business or trade name and Washington state unified business identifier number, and the date of harvest or

processing for each lot of cannabis, cannabis concentrates, useable cannabis, or cannabis-infused product.

(ff) "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. The term does not include the preparation, compounding, packaging, repackaging, labeling, or relabeling of a controlled substance:

(1) by a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

(2) by a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

(gg) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium, opium derivative, and any derivative of opium or opium derivative, including their salts, isomers, and salts of isomers, whenever the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation. The term does not include the isoquinoline alkaloids of opium.

(2) Synthetic opiate and any derivative of synthetic opiate, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation.

(3) Poppy straw and concentrate of poppy straw.

(4) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives or ecgonine or their salts have been removed.

(5) Cocaine, or any salt, isomer, or salt of isomer thereof.

(6) Cocaine base.

(7) Ecgonine, or any derivative, salt, isomer, or salt of isomer thereof.

(8) Any compound, mixture, or preparation containing any quantity of any substance referred to in (1) through (7) of this subsection.

(hh) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term includes opium, substances derived from opium (opium derivatives), and synthetic opiates. The term does not include, unless specifically designated as controlled under RCW 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). The term includes the racemic and levorotatory forms of dextromethorphan.

(ii) "Opium poppy" means the plant of the species Papaver somniferum L., except its seeds.

(jj) "Person" means individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

(kk) "Plant" has the meaning provided in RCW 69.51A.010.

(ll) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(mm) "Practitioner" means:

(1) A physician under chapter 18.71 RCW; a physician assistant under chapter 18.71A RCW; an osteopathic physician and surgeon under chapter 18.57 RCW; an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010 subject to any limitations in RCW 18.53.010; a dentist under chapter 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW; a veterinarian under chapter 18.92 RCW; a registered nurse, advanced registered nurse practitioner, or licensed practical nurse under chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW who is licensed under RCW 18.36A.030 subject to any limitations in RCW 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific investigator under this chapter, licensed, registered or otherwise permitted insofar as is consistent with those licensing laws to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of their professional practice or research in this state.

(2) A pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.

(3) A physician licensed to practice medicine and surgery, a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed physician assistant or a licensed osteopathic physician assistant specifically approved to prescribe controlled substances by his or her state's medical commission or equivalent and his or her supervising physician, an advanced registered nurse practitioner licensed to prescribe controlled substances, or a veterinarian licensed to practice veterinary medicine in any state of the United States.

(nn) "Prescription" means an order for controlled substances issued by a practitioner duly authorized by law or rule in the state of Washington to prescribe controlled substances within the scope of his or her professional practice for a legitimate medical purpose.

(oo) "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.

(pp) "Qualifying patient" has the meaning provided in RCW 69.51A.010.

(qq) "Recognition card" has the meaning provided in RCW 69.51A.010.

(rr) "Retail outlet" means a location licensed by the board for the retail sale of cannabis concentrates, useable cannabis, and cannabis-infused products.

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

(tt) "Social equity plan" means a plan that addresses at least some of the elements outlined in this subsection (tt), along with any additional plan components or requirements approved by the board following consultation with the task force created in RCW 69.50.336. The plan may include:

(1) A statement that indicates how the cannabis licensee will work to promote social equity goals in their community;

(2) A description of how the cannabis licensee will meet social equity goals as defined in RCW 69.50.335;

(3) The composition of the workforce the licensee has employed or intends to hire; and

(4) Business plans involving partnerships or assistance to organizations or residents with connections to populations with a history of high rates of enforcement of cannabis prohibition.

(uu) "State," unless the context otherwise requires, means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(((~~(uu)~~))) (vv) "THC concentration" means percent of delta-9 tetrahydrocannabinol content per dry weight of any part of the plant *Cannabis*, or per volume or weight of cannabis product, or the combined percent of delta-9 tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant *Cannabis* regardless of moisture content.

(((~~(vv)~~))) (ww) "Ultimate user" means an individual who lawfully possesses a controlled substance for the individual's own use or for the use of a member of the individual's household or for administering to an animal owned by the individual or by a member of the individual's household.

(((~~(ww)~~))) (xx) "Useable cannabis" means dried cannabis flowers. The term "useable cannabis" does not include either cannabis-infused products or cannabis concentrates.

(((~~(xx)~~))) (yy) "Youth access" means the level of interest persons under the age of twenty-one may have in a vapor product, as well as the degree to which the product is available or appealing to such persons, and the likelihood of initiation, use, or addiction by adolescents and young adults.

NEW SECTION. **Sec. 7.** (1) The joint legislative audit and review committee must review prior canopy studies completed by the liquor and cannabis board and examine whether current levels of cannabis production align with market demand and capacity, including the impact of any additional cannabis producer licenses granted under this act.

(2) The joint legislative audit and review committee must report results of their review to the governor and appropriate committees of the legislature by June 30, 2025.

NEW SECTION. **Sec. 8.** Section 4 of this act expires July 1, 2024.

NEW SECTION. **Sec. 9.** Section 5 of this act takes effect July 1, 2024.

Passed by the Senate April 13, 2023.

Passed by the House April 10, 2023.

Approved by the Governor May 1, 2023.

Filed in Office of Secretary of State May 2, 2023.

CHAPTER 221

[Engrossed Substitute Senate Bill 5124]

CHILD WELFARE—GUARDIANSHIP SUBSIDIES AND VOLUNTARY PLACEMENT AGREEMENTS

AN ACT Relating to supporting guardianships and voluntary placement with nonrelative kin; and amending RCW 13.36.090, 74.13.062, and 74.13.031.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 13.36.090 and 2010 c 272 s 9 are each amended to read as follows:

(1) ((~~A relative guardian who is a licensed foster parent~~)) Any guardian who is a foster parent licensed pursuant to RCW 74.15.030 at the time a guardianship is established under this chapter and who has been the child's foster parent for a minimum of six consecutive months preceding entry of the guardianship order is eligible for a ((~~relative~~)) guardianship subsidy on behalf of the child. The department may establish rules setting eligibility, application, and program standards consistent with applicable federal guidelines for expenditure of state and federal funds.

(2) ((~~Within amounts appropriated for this specific purpose, a guardian who is a licensed foster parent at the time a guardianship is established under this chapter and who has been the child's foster parent for a minimum of six consecutive months preceding entry of the guardianship order is eligible for a guardianship subsidy on behalf of the child.~~)) A child is eligible for guardianship subsidies when:

(a) The child has been placed for at least six consecutive months with a guardian who has been licensed for at least six consecutive months; or

(b) The child is placed with a guardian who is already receiving a guardianship assistance subsidy for the benefit of the child's sibling.

(3) A child need not be eligible for federal foster care reimbursement in order to qualify for state-funded guardianship assistance payments.

(4) Nothing in this section shall be construed to create an entitlement to guardianship assistance subsidies.

Sec. 2. RCW 74.13.062 and 2022 c 127 s 4 are each amended to read as follows:

(1) The department shall adopt rules consistent with federal regulations for the receipt and expenditure of state and federal funds and implement a subsidy program for eligible ((~~relatives~~)) guardians appointed by the court ((~~as a guardian~~)) under RCW 13.36.050 ((~~or as a guardian~~)), guardians of a minor appointed under RCW 11.130.215, or guardians of an Indian child who receive guardianship subsidies as provided in RCW 74.13.031.

(2) For the purpose of licensing a relative seeking to be appointed as a guardian and eligible for a guardianship subsidy under this section, the department shall, on a case-by-case basis, and when determined to be in the best interests of the child:

(a) Waive nonsafety licensing standards; and

(b) Apply the list of disqualifying crimes in the adoption and safe families act, unless doing so would compromise the child's safety, or would adversely affect the state's ability to continue to obtain federal funding for child welfare related functions.

(3) ((~~Relative guardianship~~)) Guardianship subsidy agreements shall be designed to promote long-term permanency for the child, and may include provisions for periodic review of the subsidy amount and the needs of the child.

Sec. 3. RCW 74.13.031 and 2020 c 274 s 61 are each amended to read as follows:

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

(2) Within available resources, the department shall recruit an adequate number of prospective adoptive and foster homes, both regular and specialized, i.e. homes for children of ethnic minority, including Indian homes for Indian children, sibling groups, children with disabilities or behavioral health conditions, teens, pregnant and parenting teens, and the department shall annually ((~~report~~)) provide data and information 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."~~)) Placing children with relatives; (b) providing supports to kinship caregivers including guardianship assistance payments; (c) supporting relatives to pass home studies and become licensed caregivers; and (d) meeting the need for nonrelative family foster homes when children cannot be placed with relatives.

(3) The department shall investigate complaints of any recent act or failure to act on the part of a parent or caretaker that results in death, serious physical or emotional harm, or sexual abuse or exploitation, or that presents an imminent risk of serious harm, and on the basis of the findings of such investigation, offer child welfare services in relation to the problem to such parents, legal custodians, or persons serving in loco parentis, and/or bring the situation to the attention of an appropriate court, or another community agency. An investigation is not required of nonaccidental injuries which are clearly not the result of a lack of care or supervision by the child's parents, legal custodians, or persons serving in loco parentis. If the investigation reveals that a crime against a child may have been committed, the department shall notify the appropriate law enforcement agency.

(4) As provided in RCW 26.44.030, the department may respond to a report of child abuse or neglect by using the family assessment response.

(5) The department shall offer, on a voluntary basis, family reconciliation services to families who are in conflict.

(6) The department shall monitor placements of children in out-of-home care and in-home dependencies to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010. Under this section children in out-of-home care and in-home dependencies and their caregivers shall receive a private and individual face-to-face visit each month. The department shall randomly select no less than ten percent of the caregivers currently providing care to receive one unannounced face-to-face visit in the caregiver's home per year. No caregiver

will receive an unannounced visit through the random selection process for two consecutive years. If the caseworker makes a good faith effort to conduct the unannounced visit to a caregiver and is unable to do so, that month's visit to that caregiver need not be unannounced. The department is encouraged to group monthly visits to caregivers by geographic area so that in the event an unannounced visit cannot be completed, the caseworker may complete other required monthly visits. The department shall use a method of random selection that does not cause a fiscal impact to the department.

The department shall conduct the monthly visits with children and caregivers to whom it is providing child welfare services.

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

(8) The department may accept custody of children from parents through a voluntary placement agreement to provide child welfare services. The department may place children with a relative, a suitable person, or a licensed foster home under a voluntary placement agreement. In seeking a placement for a voluntary placement agreement, the department should consider the preferences of the parents and attempt to place with relatives or suitable persons over licensed foster care.

(9) The department shall have authority to provide temporary shelter to children who have run away from home and who are admitted to crisis residential centers.

((~~(9)~~)) (10) The department shall have authority to purchase care for children.

((~~(10)~~)) (11) The department shall 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.

((~~(11)~~)) (12)(a) The department shall provide continued extended foster care services to nonminor dependents who are:

(i) Enrolled in a secondary education program or a secondary education equivalency program;

(ii) Enrolled and participating in a postsecondary academic or postsecondary vocational education program;

(iii) Participating in a program or activity designed to promote employment or remove barriers to employment;

(iv) Engaged in employment for eighty hours or more per month; or

(v) Not able to engage in any of the activities described in (a)(i) through (iv) of this subsection due to a documented medical condition.

(b) To be eligible for extended foster care services, the nonminor dependent must have been dependent at the time that he or she reached age eighteen years. If the dependency case of the nonminor dependent was dismissed pursuant to RCW 13.34.267, he or she may receive extended foster care services pursuant to a voluntary placement agreement under RCW 74.13.336 or pursuant to an order of dependency issued by the court under RCW 13.34.268. A nonminor dependent whose dependency case was dismissed by the court may request extended foster care services before reaching age twenty-one years. Eligible nonminor dependents may unenroll and reenroll in extended foster care through a voluntary placement agreement an unlimited number of times between ages eighteen and twenty-one.

(c) The department shall develop and implement rules regarding youth eligibility requirements.

(d) The department shall make efforts to ensure that extended foster care services maximize medicaid reimbursements. This must include the department ensuring that health and mental health extended foster care providers participate in medicaid, unless the condition of the extended foster care youth requires specialty care that is not available among participating medicaid providers or there are no participating medicaid providers in the area. The department shall coordinate other services to maximize federal resources and the most cost-efficient delivery of services to extended foster care youth.

(e) The department shall allow a youth who has received extended foster care services, but lost his or her eligibility, to reenter the extended foster care program an unlimited number of times through a voluntary placement agreement when he or she meets the eligibility criteria again.

(((~~(12)~~))) (13) The department shall have authority to provide adoption support benefits((~~, or relative guardianship subsidies~~)) on behalf of youth ages ((~~eighteen to twenty-one~~)) 18 to 21 years who achieved permanency through adoption ((~~or a relative guardianship~~)) at age ((~~sixteen~~)) 16 or older and who meet the criteria described in subsection (((~~(11)~~))) (12) of this section.

(((~~(13)~~))) (14) The department shall have the authority to provide guardianship subsidies on behalf of youth ages 18 to 21 who achieved permanency through guardianship and who meet the criteria described in subsection (12) of this section.

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

(((~~(14)~~))) (16) The department shall have authority within funds appropriated for foster care services to purchase care for Indian children who are in the custody of a federally recognized Indian tribe or tribally licensed child-placing agency pursuant to parental consent, tribal court order, or state juvenile court order. The purchase of such care is exempt from the requirements of chapter 74.13B RCW and may be purchased from the federally recognized Indian tribe or tribally licensed child-placing agency, and 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, 43.185C.295, 74.13.035, and 74.13.036, or of this section all services to be provided by the department under subsections (4), (7), and ((~~(8)~~)) (9) of this section, subject to the limitations of these subsections, may be provided by any program offering such services funded pursuant to Titles II and III of the federal juvenile justice and delinquency prevention act of 1974.

((~~(15)~~)) (17) The department may, within funds appropriated for guardianship subsidies, provide subsidies for eligible guardians who are appointed as guardian of an Indian child by the tribal court of a federally recognized tribe located in Washington state, as defined in RCW 13.38.040. The provision of subsidies shall be subject to the same eligibility standards and rates of support applicable to other children for whom the department provides subsidies. To be eligible, the guardian must either be certified by a department-licensed child-placing agency or licensed by a federally recognized tribe located in Washington state that is a Title IV-E agency, as defined in 45 C.F.R. 1355.20.

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

((~~(16)~~)) (19) The department shall have authority to provide independent living services to youths, including individuals who have attained eighteen years of age, and have not attained twenty-three years of age, who are or have been in the department's care and custody, or who are or were nonminor dependents.

((~~(17)~~)) (20) The department shall consult at least quarterly with foster parents, including members of the foster parent association of Washington state, for the purpose of receiving information and comment regarding how the department is performing the duties and meeting the obligations specified in this section and RCW 74.13.250 regarding the recruitment of foster homes, reducing foster parent turnover rates, providing effective training for foster parents, and administering a coordinated and comprehensive plan that strengthens services for the protection of children. Consultation shall occur at the regional and statewide levels.

((~~(18)~~)) (21)(a) The department shall, within current funding levels, place on its public website a document listing the duties and responsibilities the department has to a child subject to a dependency petition including, but not limited to, the following:

(i) Reasonable efforts, including the provision of services, toward reunification of the child with his or her family;

(ii) Sibling visits subject to the restrictions in RCW 13.34.136(2)(b)(ii);

(iii) Parent-child visits;

(iv) Statutory preference for placement with a relative or other suitable person, if appropriate; and

(v) Statutory preference for an out-of-home placement that allows the child to remain in the same school or school district, if practical and in the child's best interests.

(b) The document must be prepared in conjunction with a community-based organization and must be updated as needed.

(((~~(19)~~))) (22)(a) The department shall have the authority to purchase legal representation for parents or kinship caregivers, or both, of children who are at risk of being dependent, or who are dependent, to establish or modify a parenting plan under RCW 13.34.155 or chapter 26.09, 26.26A, or 26.26B RCW or secure orders establishing other relevant civil legal relationships authorized by law, when it is necessary for the child's safety, permanence, or well-being. The department's purchase of legal representation for kinship caregivers must be within the department's appropriations. This subsection does not create an entitlement to legal representation purchased by the department and does not create judicial authority to order the department to purchase legal representation for a parent or kinship caregiver. Such determinations are solely within the department's discretion. The term "kinship caregiver" as used in this section means a caregiver who meets the definition of "kin" in RCW 74.13.600(1), unless the child is an Indian child as defined in RCW 13.38.040 and 25 U.S.C. Sec. 1903. For an Indian child as defined in RCW 13.38.040 and 25 U.S.C. Sec. 1903, the term "kinship caregiver" as used in this section means a caregiver who is an "extended family member" as defined in RCW 13.38.040(8).

(b) The department is encouraged to work with the office of public defense parent representation program and the office of civil legal aid to develop a cost-effective system for providing effective civil legal representation for parents and kinship caregivers if it exercises its authority under this subsection.

Passed by the Senate March 3, 2023.
Passed by the House April 10, 2023.
Approved by the Governor May 1, 2023.
Filed in Office of Secretary of State May 2, 2023.

CHAPTER 222

[Second Substitute Senate Bill 5225]

WORKING CONNECTIONS CHILD CARE PROGRAM—ELIGIBILITY

AN ACT Relating to increasing access to the working connections child care program; amending RCW 43.216.136 and 43.216.1368; reenacting and amending RCW 43.216.135; adding a new section to chapter 43.216 RCW; creating a new section; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature acknowledges that the working connections child care program provides quality child care for families. The legislature intends to increase access to this program for certain families.

(2) The legislature recognizes that child care providers are struggling to hire and retain child care employees. As stated in RCW 43.216.749, the legislature intends to systemically increase child care subsidy rates over time until rates are equal to the full cost of providing high quality child care to help address these workforce issues. The legislature intends to provide child care employees with access to the working connections child care program as a more immediate benefit while acknowledging that this benefit may not be needed as child care subsidy rates increase.

(3) As stated in RCW 2.30.010, the legislature recognizes that therapeutic courts provide an opportunity for defendants or respondents to obtain treatment services to address particular issues that may have contributed to the conduct

that led to their issue before the court. The legislature intends to provide those participating in these courts with access to the working connections child care program to help support their success in these courts and to provide stable and high quality child care for their families.

(4) The legislature acknowledges that the working connections child care program requires children to have a certain immigration status to be eligible. The legislature intends to expand the working connections child care program to provide access to child care for these families.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.216 RCW to read as follows:

(1) Beginning October 1, 2023, a family is eligible for working connections child care when the household's annual income is at or below 85 percent of the state median income adjusted for family size and:

(a) The child receiving care is: (i) Less than 13 years of age; or (ii) less than 19 years of age and has a verified special need according to department rule or is under court supervision;

(b) The applicant or consumer is employed in a licensed child care center or family home provider, as verified in the agency's electronic workforce registry; and

(c) The household meets all other program eligibility requirements.

(2) The department must waive the copayment to the extent allowable under federal law; otherwise, a maximum of $15 for any applicant or consumer that meets the requirements under this section.

Sec. 3. RCW 43.216.136 and 2021 c 199 s 202 are each amended to read as follows:

(1) The department shall establish and implement policies in the working connections child care program to promote stability and quality of care for children from low-income households. These policies shall focus on supporting school readiness for young learners. Policies for the expenditure of funds constituting the working connections child care program must be consistent with the outcome measures established by the department and the standards established in this section intended to promote stability, quality, and continuity of early care and education programming.

(2) As recommended by P.L. 113-186, authorizations for the working connections child care subsidy are effective for ((~~twelve~~)) 12 months beginning July 1, 2016.

(a) A household's 12-month authorization begins on the date that child care is expected to begin.

(b) If a newly eligible household does not begin care within 12 months of being determined eligible by the department, the household must reapply in order to qualify for subsidy.

(3)(a) The department shall establish and implement policies in the working connections child care program to allow eligibility for families with children who:

(i) In the last six months have:

(A) Received child protective services as defined and used by chapters 26.44 and 74.13 RCW;

(B) Received child welfare services as defined and used by chapter 74.13 RCW; ((~~or~~))

(C) Received services through a family assessment response as defined and used by chapter 26.44 RCW; or

(D) A parent or guardian participating in a specialty court or therapeutic court or who is a listed victim in a case in a specialty court or therapeutic court;

(ii) Have been referred for child care as part of the family's case management as defined by RCW 74.13.020 or as part of the specialty court or therapeutic court's proceedings; and

(iii) Are residing with a biological parent or guardian.

(b) Families who are eligible for working connections child care pursuant to this subsection do not have to keep receiving services or keep participating in a specialty court or therapeutic court identified in this subsection to maintain ((~~twelve~~)) 12-month authorization.

(4)(a) Beginning July 1, 2021, and subject to the availability of amounts appropriated for this specific purpose, the department may not require an applicant or consumer to meet work requirements as a condition of receiving working connections child care benefits when the applicant or consumer is a full-time student of a community, technical, or tribal college and is enrolled in:

(i) A vocational education program that leads to a degree or certificate in a specific occupation;

(ii) An associate degree program; or

(iii) A registered apprenticeship program.

(b) An applicant or consumer is a full-time student for the purposes of this subsection if he or she meets the college's definition of a full-time student.

(c) Nothing in this subsection is intended to change how applicants or consumers are prioritized when applicants or consumers are placed on a waitlist for working connections child care benefits.

(d) Subject to the availability of amounts appropriated for this specific purpose, the department may extend the provisions of this subsection (4) to full-time students who are enrolled in a bachelor's degree program or applied baccalaureate degree program.

(5) The department may not consider the immigration status of an applicant or consumer's child when determining eligibility for working connections child care benefits.

(6)(a) The department must extend the homeless grace period, as adopted in department rule as of January 1, 2020, from a four-month grace period to a ((~~twelve~~)) 12-month grace period.

(b) For the purposes of this section, "homeless" means being without a fixed, regular, and adequate nighttime residence as described in the federal McKinney-Vento homeless assistance act (42 U.S.C. Sec. 11434a) as it existed on January 1, 2020.

(((~~(6)~~))) (7) For purposes of this section, "authorization" means a transaction created by the department that allows a child care provider to claim payment for care. The department may adjust an authorization based on a household's eligibility status.

Sec. 4. RCW 43.216.1368 and 2022 c 297 s 959 are each amended to read as follows:

(1) It is the intent of the legislature to increase working families' access to affordable, high quality child care and to support the expansion of the workforce to support businesses and the statewide economy.

(2) Beginning October 1, 2021, a family is eligible for working connections child care when the household's annual income is at or below 60 percent of the state median income adjusted for family size and:

(a) The child receiving care is: (i) Less than 13 years of age; or (ii) less than 19 years of age and has a verified special need according to department rule or is under court supervision; and

(b) The household meets all other program eligibility requirements.

(3) Beginning July 1, 2025, a family is eligible for working connections child care when the household's annual income is above 60 percent and at or below 75 percent of the state median income adjusted for family size and:

(a) The child receiving care is: (i) Less than 13 years of age; or (ii) less than 19 years of age and has a verified special need according to department rule or is under court supervision; and

(b) The household meets all other program eligibility requirements.

(4) Beginning July 1, 2027, and subject to the availability of amounts appropriated for this specific purpose, a family is eligible for working connections child care when the household's annual income is above 75 percent of the state median income and is at or below 85 percent of the state median income adjusted for family size and:

(a) The child receiving care is: (i) Less than 13 years of age; or (ii) less than 19 years of age and has a verified special need according to department rule or is under court supervision; and

(b) The household meets all other program eligibility requirements.

(5)(a) Beginning October 1, 2021, through June 30, 2023, the department must calculate a monthly copayment according to the following schedule:

If the household's income is:	Then the household's maximum monthly copayment is:
At or below 20 percent of the state median income	Waived to the extent allowable under federal law; otherwise, a maximum of $15
Above 20 percent and at or below 36 percent of the state median income	$65
Above 36 percent and at or below 50 percent of the state median income	$115 until December 31, 2021, and $90 beginning January 1, 2022
Above 50 percent and at or below 60 percent of the state median income	$115

(b) Beginning July 1, 2023, the department must calculate a monthly copayment according to the following schedule:

If the household's income is:	Then the household's maximum monthly copayment is:

At or below 20 percent of the state median income	Waived to the extent allowable under federal law; otherwise, a maximum of $15
Above 20 percent and at or below 36 percent of the state median income	$65
Above 36 percent and at or below 50 percent of the state median income	$90
Above 50 percent and at or below 60 percent of the state median income	$165

(c) Beginning July 1, 2025, the department must calculate a maximum monthly copayment of $215 for households with incomes above 60 percent and at or below 75 percent of the state median income.

(d) Subject to the availability of amounts appropriated for this specific purpose, the department shall adopt a copayment model for households with annual incomes above 75 percent of the state median income and at or below 85 percent of the state median income. The model must calculate a copayment for each household that is no greater than seven percent of the household's countable income within this income range.

(e) The department may adjust the copayment schedule to comply with federal law.

(6) The department must adopt rules to implement this section, including an income phase-out eligibility period.

(7) This section does not apply to households eligible for the working connections child care program under RCW 43.216.145 and section 2 of this act.

Sec. 5. RCW 43.216.135 and 2020 c 355 s 2, 2020 c 321 s 2, and 2020 c 279 s 1 are each reenacted and amended to read as follows:

(1) Existing child care providers serving nonschool-age children and receiving state subsidy payments must complete the following requirements to be eligible for a state subsidy under this section:

(a) Enroll in the early achievers program by August 1, 2016;

(b) Complete level 2 activities in the early achievers program by August 1, 2017; and

(c) Rate or request to be rated at a level 3 or higher in the early achievers program by December 31, 2019. If a child care provider does not rate at or request to be rated at a level 3 by December 31, 2019, the provider must complete remedial activities with the department, and must rate at or request to be rated at a level 3 or higher no later than December 30, 2020.

(2) A new child care provider serving nonschool-age children and receiving state subsidy payments must complete the following activities to be eligible to receive a state subsidy under this section:

(a) Enroll in the early achievers program within ((~~thirty~~)) 30 days of receiving the initial state subsidy payment;

(b) Complete level 2 activities in the early achievers program within ((~~twelve~~)) 12 months of enrollment; and

(c) Rate or request to be rated at a level 3 or higher in the early achievers program within ((~~thirty~~)) 30 months of enrollment. If a child care provider does

not rate or request to be rated at a level 3 within thirty months from enrollment into the early achievers program, the provider must complete remedial activities with the department, and rate or request to be rated at a level 3 or higher within ((~~twelve~~)) 12 months of beginning remedial activities.

(3) If a child care provider does not rate or request to be rated at a level 3 or higher following the remedial period, the provider is no longer eligible to receive state subsidy under this section. If a child care provider does not rate at a level 3 or higher when the rating is released following the remedial period, the provider is no longer eligible to receive state subsidy under this section.

(4) If a child care provider serving nonschool-age children and receiving state subsidy payments has successfully completed all level 2 activities and is waiting to be rated by the deadline provided in this section, the provider may continue to receive a state subsidy pending the successful completion of the level 3 rating activity.

(5) The department shall implement tiered reimbursement for early achievers program participants in the working connections child care program rating at level 3, 4, or 5.

(6) The department shall account for a child care copayment collected by the provider from the family for each contracted slot ((~~and establish the copayment fee by rule~~)).

NEW SECTION. **Sec. 6.** Section 3 of this act takes effect October 1, 2023.

Passed by the Senate March 3, 2023.
Passed by the House April 11, 2023.
Approved by the Governor May 1, 2023.
Filed in Office of Secretary of State May 2, 2023.

CHAPTER 223

[Senate Bill 5252]

BACKGROUND CHECKS—VARIOUS PROVISIONS

AN ACT Relating to modifications necessary to comply with federal regulations regarding dissemination of federal bureau of investigation criminal history record information; and amending RCW 18.88B.080, 43.43.832, 43.43.837, and 74.39A.056.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 18.88B.080 and 2012 c 164 s 501 are each amended to read as follows:

A long-term care worker disqualified from working with vulnerable persons under chapter 74.39A RCW may not be certified or maintain certification as a home care aide under this chapter. ((~~To allow the department to satisfy its certification responsibilities under this chapter, the department of social and health services shall share the results of state and federal background checks conducted pursuant to RCW 74.39A.056 with the department. Neither department may share the federal background check results with any other state agency or person.~~))

Sec. 2. RCW 43.43.832 and 2021 c 203 s 1 are each amended to read as follows:

(1) The Washington state patrol identification and criminal history section shall disclose conviction records as follows:

(a) An applicant's conviction record, upon the request of a business or organization as defined in RCW 43.43.830, a developmentally disabled person, or a vulnerable adult as defined in RCW 43.43.830 or his or her guardian;

(b) The conviction record of an applicant for certification, upon the request of the Washington professional educator standards board;

(c) Any conviction record to aid in the investigation and prosecution of child, developmentally disabled person, and vulnerable adult abuse cases and to protect children and adults from further incidents of abuse, upon the request of a law enforcement agency, the office of the attorney general, prosecuting authority, or the department of social and health services; and

(d) A prospective client's or resident's conviction record, upon the request of a business or organization that qualifies for exemption under section 501(c)(3) of the internal revenue code of 1986 (26 U.S.C. Sec. 501(c)(3)) and that provides emergency shelter or transitional housing for children, persons with developmental disabilities, or vulnerable adults.

(2) The secretary of the department of social and health services and the secretary of children, youth, and families must establish rules and set standards to require specific action when considering the information received pursuant to subsection (1) of this section, and when considering additional information including but not limited to civil adjudication proceedings as defined in RCW 43.43.830 and any out-of-state equivalent, in the following circumstances:

(a) When considering persons for state employment in positions directly responsible for the supervision, care, or treatment of children, vulnerable adults, or individuals with mental illness or developmental disabilities provided that: For persons residing in a home that will be utilized to provide foster care for dependent youth, a criminal background check will be required for all persons aged sixteen and older and the department of ((~~social and health services~~)) children, youth, and families may require a criminal background check for persons who are younger than sixteen in situations where it may be warranted to ensure the safety of youth in foster care;

(b) When considering persons for state positions involving unsupervised access to vulnerable adults to conduct comprehensive assessments, financial eligibility determinations, licensing and certification activities, investigations, surveys, or case management; or for state positions otherwise required by federal law to meet employment standards;

(c) When licensing agencies or facilities with individuals in positions directly responsible for the care, supervision, or treatment of children, developmentally disabled persons, or vulnerable adults, including but not limited to agencies or facilities licensed under chapter 74.15 or 18.51 RCW;

(d) When contracting with individuals or businesses or organizations for the care, supervision, case management, or treatment, including peer counseling, of children, developmentally disabled persons, or vulnerable adults, including but not limited to services contracted for under chapter 18.20, 70.127, 70.128, 72.36, or 74.39A RCW or Title 71A RCW;

(e) When individual providers as defined in RCW 74.39A.240 or providers paid by home care agencies provide in-home services involving unsupervised access to persons with physical, mental, or developmental disabilities or mental illness, or to vulnerable adults as defined in chapter 74.34 RCW, including but not limited to services provided under chapter 74.39 or 74.39A RCW.

(3) The secretary of the department of children, youth, and families shall investigate the conviction records, pending charges, and other information including civil adjudication proceeding records of current employees and of any person actively being considered for any position with the department who will or may have unsupervised access to children, or for state positions otherwise required by federal law to meet employment standards. "Considered for any position" includes decisions about (a) initial hiring, layoffs, reallocations, transfers, promotions, or demotions, or (b) other decisions that result in an individual being in a position that will or may have unsupervised access to children as an employee, an intern, or a volunteer.

(4) The secretary of the department of children, youth, and families shall adopt rules and investigate conviction records, pending charges, and other information including civil adjudication proceeding records, in the following circumstances:

(a) When licensing or certifying agencies with individuals in positions that will or may have unsupervised access to children who are in child day care, in early learning programs, or receiving early childhood education services, including but not limited to licensees, agency staff, interns, volunteers, contracted providers, and persons living on the premises who are sixteen years of age or older;

(b) When authorizing individuals who will or may have unsupervised access to children who are in child day care, in early learning programs, or receiving early childhood learning education services in licensed or certified agencies, including but not limited to licensees, agency staff, interns, volunteers, contracted providers, and persons living on the premises who are sixteen years of age or older;

(c) When contracting with any business or organization for activities that will or may have unsupervised access to children who are in child day care, in early learning programs, or receiving early childhood learning education services;

(d) When establishing the eligibility criteria for individual providers to receive state paid subsidies to provide child day care or early learning services that will or may involve unsupervised access to children; and

(e) When responding to a request from an individual for a certificate of parental improvement under chapter 74.13 RCW.

(5) Whenever a state conviction record check is required by state law, persons may be employed or engaged as volunteers or independent contractors on a conditional basis pending completion of the state background investigation. Whenever a national criminal record check through the federal bureau of investigation is required by state law, a person may be employed or engaged as a volunteer or independent contractor on a conditional basis pending completion of the national check. The office of financial management shall adopt rules to accomplish the purposes of this subsection as it applies to state employees. The department of social and health services shall adopt rules to accomplish the purpose of this subsection as it applies to long-term care workers subject to RCW 74.39A.056.

(6)(a) For purposes of facilitating timely access to criminal background information and to reasonably minimize the number of requests made under this section, recognizing that certain health care providers change employment

frequently, health care facilities may, upon request from another health care facility, share copies of completed Washington state criminal background inquiry information.

(b) Completed state criminal background inquiry information may be shared by a willing health care facility only if the following conditions are satisfied: The licensed health care facility sharing the state criminal background inquiry information is reasonably known to be the person's most recent employer, no more than twelve months has elapsed from the date the person was last employed at a licensed health care facility to the date of their current employment application, and the state criminal background information is no more than two years old.

(c) If state criminal background inquiry information is shared, the health care facility employing the subject of the inquiry must require the applicant to sign a disclosure statement indicating that there has been no conviction or finding as described in RCW 43.43.842 since the completion date of the most recent criminal background inquiry.

(d) Any health care facility that knows or has reason to believe that an applicant has or may have a disqualifying conviction or finding as described in RCW 43.43.842, subsequent to the completion date of their most recent criminal background inquiry, shall be prohibited from relying on the applicant's previous employer's state criminal background inquiry information. A new state criminal background inquiry shall be requested pursuant to RCW 43.43.830 through 43.43.842.

(e) Health care facilities that share state criminal background inquiry information shall be immune from any claim of defamation, invasion of privacy, negligence, or any other claim in connection with any dissemination of this information in accordance with this subsection.

(f) Health care facilities shall transmit and receive the state criminal background inquiry information in a manner that reasonably protects the subject's rights to privacy and confidentiality.

(7) The department of social and health services may not consider any final founded finding of physical abuse or negligent treatment or maltreatment of a child made pursuant to chapter 26.44 RCW that is accompanied by a certificate of parental improvement or dependency as a result of a finding of abuse or neglect pursuant to chapter 13.34 RCW that is accompanied by a certificate of parental improvement when evaluating an applicant or employee's character, competency, and suitability pursuant to any background check authorized or required by this chapter, RCW 43.20A.710 or 74.39A.056, or any of the rules adopted thereunder.

Sec. 3. RCW 43.43.837 and 2022 c 297 s 954 are each amended to read as follows:

(1) ((~~Except as provided in subsection (2) of this section, in~~)) In order to determine the character, competence, and suitability of any applicant or service provider to have unsupervised access to vulnerable adults, children, or juveniles, the secretary of the department of social and health services ((~~and the secretary of the department of children, youth, and families may require a fingerprint-based background check through both the Washington state patrol and the federal bureau of investigation at any time, but shall require a fingerprint-based background check when the applicant or service provider has resided in the state~~

~~less than three consecutive years before application, and~~)) shall require the applicant or service provider to submit fingerprints for the purpose of investigating conviction records through both the Washington state patrol and the federal bureau of investigation when the applicant or service provider:

(a) ((~~Is an applicant or service provider providing services to children or people with developmental disabilities under RCW 74.15.030;~~

~~(b) Is an individual sixteen years of age or older who: (i) Is not under the placement and care authority of the department of children, youth, and families; and (ii) resides in an applicant or service provider's home, facility, entity, agency, or business or who is authorized by the department of children, youth, and families to provide services to children under RCW 74.15.030;~~

~~(c) Is an individual who is authorized by the department of social and health services to provide services to people with developmental disabilities under RCW 74.15.030; or~~

~~(d) Is an applicant or service provider providing in-home services funded by:~~

~~(i) Medicaid personal care under RCW 74.09.520;~~

~~(ii) Community options program entry system waiver services under RCW 74.39A.030;~~

~~(iii) Chore services under RCW 74.39A.110; or~~

~~(iv) Other~~)) Has resided in the state less than three consecutive years before application and:

(i) Is a contractor providing services funded by other home and community long-term care programs, established pursuant to chapters 71A.12, 74.09, 74.39, and 74.39A RCW, administered by the department of social and health services;

(ii) Is an individual who is authorized by the department of social and health services to provide services to people with developmental disabilities under RCW 74.15.030; or

(iii) Is applying for employment or is already employed by an area agency on aging or federally recognized Indian tribe, or is an employee of a contractor of an area agency on aging or federally recognized Indian tribe, that will, or may, have unsupervised access to vulnerable adults, children, or juveniles when engaging in the activities described in RCW 74.09.520(5);

(b) Is applying for employment or is already employed at any secure facility operated by the department of social and health services under chapter 71.09 RCW;

(c) Is applying to be an adult family home licensee, entity representative, or resident manager under chapter 70.128 RCW;

(d) Is applying to be an assisted living facility licensee or administrator under chapter 18.20 RCW;

(e) Is applying to be an enhanced services facility licensee or administrator under chapter 70.97 RCW;

(f) Is applying to be a certified community residential services and supports provider or administrator under chapter 71A.12 RCW;

(g) Has been categorized as a high-risk provider as defined in subsection (10)(f) of this section; or

(h) Is applying for employment or is already employed at any residential habilitation center or other state-operated program for individuals with developmental disabilities under chapter 71A.20 RCW.

(2) Long-term care workers, as defined in RCW 74.39A.009, who are hired after January 7, 2012, are subject to fingerprint-based background checks under RCW 74.39A.056.

(3) ((~~To satisfy the shared background check requirements provided for in RCW 43.216.270 and 43.20A.710, the department of children, youth, and families and the department of social and health services shall share federal fingerprint-based background check results as permitted under the law. The purpose of this provision is to allow both departments to fulfill their joint background check responsibility of checking any individual who may have unsupervised access to vulnerable adults, children, or juveniles. Neither department may share the federal background check results with any other state agency or person.~~)) In order to determine the character, competence, and suitability of an applicant or service provider to have unsupervised access to children or juveniles, the secretary of the department of children, youth, and families shall require the applicant or service provider to submit fingerprints for the purpose of investigating conviction records through both the Washington state patrol and the federal bureau of investigation when the applicant or service provider:

(a) Is applying for a license under RCW 74.15.030 or is an adult living in a home where a child is placed;

(b) Is applying for employment or already employed at a group care facility, regardless of whether the applicant is working directly with children;

(c) Is newly applying for an agency license, is newly licensed, is an employee of an agency that is newly licensed, or will newly have unsupervised access to children in child care, pursuant to RCW 43.216.270; or

(d) Has resided in the state less than three consecutive years before application; and:

(i) Is applying for employment, promotion, reallocation, or transfer to a position the department of children, youth, and families has identified as one that will, or may, require the applicant to have unsupervised access to children or juveniles because of the nature of the work;

(ii) Is a business or individual contracted to provide services to children or people with developmental disabilities under RCW 74.15.030; or

(iii) Is an individual 16 years of age or older who: (A) Is not under the placement and care authority of the department of children, youth, and families; and (B) resides in an applicant or service provider's home, facility, entity, agency, or business or who is authorized by the department of children, youth, and families to provide services to children under RCW 74.15.030.

(4) The secretary of the department of children, youth, and families shall require a fingerprint-based background check through the Washington state patrol identification and criminal history section and the federal bureau of investigation when the department seeks to approve an applicant or service provider for a foster or adoptive placement of children in accordance with federal and state law. Fees charged by the Washington state patrol and the federal bureau of investigation for fingerprint-based background checks shall be paid by the department of children, youth, and families for applicants and service providers providing foster care as required in RCW 74.15.030.

(5) ((~~Any secure facility operated by the department of social and health services or the department of children, youth, and families under chapter 71.09~~

~~RCW shall require applicants and service providers to undergo a fingerprint-based background check through the Washington state patrol identification and criminal history section and the federal bureau of investigation.~~

~~(6) Service providers and service provider applicants~~)) Applicants and service providers of the department of social and health services, except for ((~~those~~)) long-term care workers ((~~exempted in subsection (2) of this section~~)) subject to RCW 74.39A.056, who are required to complete a fingerprint-based background check may be hired for a one hundred twenty-day provisional period as allowed under law or program rules when:

(a) A fingerprint-based background check is pending; and

(b) The applicant or service provider is not disqualified based on the immediate result of the background check.

(((~~(7)~~))) (6) Fees charged by the Washington state patrol and the federal bureau of investigation for fingerprint-based background checks shall be paid by the applicable department for applicants or service providers providing:

(a) Services to people with a developmental disability under RCW 74.15.030;

(b) In-home services funded by medicaid personal care under RCW 74.09.520;

(c) Community options program entry system waiver services under RCW 74.39A.030;

(d) Chore services under RCW 74.39A.110;

(e) Services under other home and community long-term care programs, established pursuant to chapters 74.39 and 74.39A RCW, administered by the department of social and health services or the department of children, youth, and families;

(f) Services in, or to residents of, a secure facility under RCW 71.09.115; and

(g) For fiscal year 2023, applicants for child care and early learning services to children under RCW 43.216.270.

(((~~(8)~~))) (7) Service providers licensed under RCW 74.15.030 must pay fees charged by the Washington state patrol and the federal bureau of investigation for conducting fingerprint-based background checks.

(((~~(9)~~))) (8) Department of children, youth, and families service providers licensed under RCW 74.15.030 may not pass on the cost of the background check fees to their applicants unless the individual is determined to be disqualified due to the background information.

(((~~(10)~~))) (9) The department of social and health services and the department of children, youth, and families shall develop rules identifying the financial responsibility of service providers, applicants, and the respective department for paying the fees charged by law enforcement to roll, print, or scan fingerprints-based for the purpose of a Washington state patrol or federal bureau of investigation fingerprint-based background check.

(((~~(11)~~))) (10) For purposes of this section, unless the context plainly indicates otherwise:

(a) "Applicant" means a current or prospective department of social and health services, department of children, youth, and families, or service provider employee, volunteer, student, intern, researcher, contractor, or any other individual specified in subsection (1)(a) through (g) or (3)(a) through (d) of this

section who will or may have unsupervised access to vulnerable adults, children, or juveniles because of the nature of the work or services he or she provides. "Applicant" includes ((~~but is not limited to~~)) any individual who will or may have unsupervised access to vulnerable adults, children, or juveniles and is:

(i) Applying for a license or certification from the department of social and health services or the department of children, youth, and families;

(ii) Seeking a contract with the department of social and health services, the department of children, youth, and families, or a service provider;

(iii) Applying for employment, promotion, reallocation, or transfer; or

(iv) An individual that a department of social and health services or department of children, youth, and families client or guardian of a department of social and health services or department of children, youth, and families client chooses to hire or engage to provide services to himself or herself or another vulnerable adult, juvenile, or child and who might be eligible to receive payment from the department of social and health services or the department of children, youth, and families for services rendered((~~; or~~

~~(v) A department of social and health services or department of children, youth, and families applicant who will or may work in a department-covered position~~)).

(b) "Area agency on aging" means an agency that is designated by the state to address the needs and concerns of older persons at the regional and local levels and is responsible for a particular geographic area that is a tribal reservation, a single county, or a multicounty planning area. Area agencies on aging have governance based on the corresponding county, city, tribal government, or council of governments.

(c) "Authorized" means the department of social and health services or the department of children, youth, and families grants an applicant, home, or facility permission to:

(i) Conduct licensing, certification, or contracting activities;

(ii) Have unsupervised access to vulnerable adults, juveniles, and children;

(iii) Receive payments from a department of social and health services or department of children, youth, and families program; or

(iv) Work or serve in a department of social and health services or department of children, youth, and families((~~-covered~~)) employment position.

(((~~(c) "Secretary" means the secretary of the department of social and health services.~~

~~(d) "Secure facility" has the meaning provided in RCW 71.09.020.~~

~~(e)~~)) (d) "Community residential services and supports provider" means a person or entity certified by the department of social and health services to deliver one or more of the services described in RCW 71A.12.040 to a person with a developmental disability, as defined in RCW 71A.10.020, who is eligible to receive services from the department of social and health services.

(e) "Entity representative" means the individual designated by an entity provider or entity applicant who:

(i) Is the representative of the entity for the purposes of fulfilling the training and qualification requirements of the state that only an individual can fulfill and an entity cannot;

(ii) Is responsible for overseeing the operation of the home; and

(iii) Does not hold the license on behalf of the entity.

(f) "High-risk provider" means a service provider that has been designated by the state medicaid agency as posing an increased financial risk of fraud, waste, or abuse to the medicaid program. A "high-risk provider" additionally includes any person who has a five percent or more direct or indirect ownership interest in such a provider.

(g) "Service provider" means entities, facilities, agencies, businesses, or individuals who are licensed, certified, authorized, or regulated by, receive payment from, or have contracts or agreements with the department of social and health services or the department of children, youth, and families to provide services to vulnerable adults, juveniles, or children. "Service provider" includes individuals whom a department of social and health services or department of children, youth, and families client or guardian of a department of social and health services or department of children, youth, and families client may choose to hire or engage to provide services to himself or herself or another vulnerable adult, juvenile, or child and who might be eligible to receive payment from the department of social and health services or the department of children, youth, and families for services rendered.

Sec. 4. RCW 74.39A.056 and 2021 c 203 s 3 are each amended to read as follows:

(1)(a) All long-term care workers shall be screened through state and federal background checks in a uniform and timely manner to verify that they do not have a history that would disqualify them from working with vulnerable persons. The department must process background checks for long-term care workers and ((~~make the information available to employers, prospective employers, and others as authorized by law~~)), based on this screening, inform employers, prospective employers, and others as authorized by law, whether screened applicants are ineligible for employment.

(b)(i) For long-term care workers hired on or after January 7, 2012, the background checks required under this section shall include checking against the federal bureau of investigation fingerprint identification records system or its successor program. The department shall require these long-term care workers to submit fingerprints for the purpose of investigating conviction records through both the Washington state patrol and the federal bureau of investigation. The department shall not pass on the cost of these criminal background checks to the workers or their employers.

(ii) A long-term care worker who is not disqualified by the state background check can work and have unsupervised access pending the results of the federal bureau of investigation fingerprint background check as allowed by rules adopted by the department.

((~~(c) The department shall share state and federal background check results with the department of health in accordance with RCW 18.88B.080.~~

~~(d) Background check screening required under this section and department rules is not required for an employee of a consumer directed employer if all of the following circumstances apply:~~

~~(i) The individual has an individual provider contract with the department;~~

~~(ii) The last background check on the contracted individual provider is still valid under department rules and did not disqualify the individual from providing personal care services;~~

~~(iii) Employment by the consumer directed employer is the only reason a new background check would be required; and~~

~~(iv) The department's background check results have been shared with the consumer directed employer.~~

~~(c) The department may require a fingerprint-based background check through both the Washington state patrol and the federal bureau of investigation at any time.~~))

(2) A provider may not be employed in the care of and have unsupervised access to vulnerable adults if:

(a) The provider is on the vulnerable adult abuse registry or on any other registry based upon a finding of abuse, abandonment, neglect, or financial exploitation of a vulnerable adult;

(b) On or after October 1, 1998, the department of children, youth, and families, or its predecessor agency, has made a founded finding of abuse or neglect of a child against the provider. If the provider has received a certificate of parental improvement under chapter 74.13 RCW pertaining to the finding, the provider is not disqualified under this section;

(c) A disciplining authority, including the department of health, has made a finding of abuse, abandonment, neglect, or financial exploitation of a minor or a vulnerable adult against the provider; or

(d) A court has issued an order that includes a finding of fact or conclusion of law that the provider has committed abuse, abandonment, neglect, or financial exploitation of a minor or vulnerable adult. If the provider has received a certificate of parental improvement under chapter 74.13 RCW pertaining to the finding of fact or conclusion of law, the provider is not disqualified under this section.

(3) The department shall establish, by rule, a state registry which contains identifying information about long-term care workers identified under this chapter who have final substantiated findings of abuse, neglect, financial exploitation, or abandonment of a vulnerable adult as defined in RCW 74.34.020. The rule must include disclosure, disposition of findings, notification, findings of fact, appeal rights, and fair hearing requirements. The department shall disclose, upon request, final substantiated findings of abuse, neglect, financial exploitation, or abandonment to any person so requesting this information. This information must also be shared with the department of health to advance the purposes of chapter 18.88B RCW.

(4) For the purposes of this section, "provider" means:

(a) An individual provider as defined in RCW 74.39A.240;

(b) An employee, licensee, or contractor of any of the following: A home care agency licensed under chapter 70.127 RCW; a nursing home under chapter 18.51 RCW; an assisted living facility under chapter 18.20 RCW; an enhanced services facility under chapter 70.97 RCW; a certified resident services and supports agency licensed or certified under chapter 71A.12 RCW; an adult family home under chapter 70.128 RCW; or any long-term care facility certified to provide medicaid or medicare services; and

(c) Any contractor of the department who may have unsupervised access to vulnerable adults.

(5) The department shall adopt rules to implement this section.

Passed by the Senate April 14, 2023.

Passed by the House April 6, 2023.
Approved by the Governor May 1, 2023.
Filed in Office of Secretary of State May 2, 2023.

CHAPTER 224

[Substitute Senate Bill 5358]

VETERANS' SERVICES AND PROGRAMS—REPORTS AND GRANTS

AN ACT Relating to expanding veterans' services and programs; amending RCW 43.60A.101; adding new sections to chapter 43.60A RCW; creating a new section; and providing expiration dates.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The legislature finds that it is vital for veterans in their return to our communities to have adequate community supports. Local programs that connect veterans with their federal benefits and with other veterans for peer support are crucial components of that structure. It is the intent of the legislature through this act to enhance state funding of these programs to ensure they are robust and widely available throughout the state.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.60A RCW to read as follows:

(1) By September 30, 2024, the department must submit a report to the legislature on the veterans service officer program authorized in RCW 43.60A.230 to determine the effectiveness of the program in meeting the needs of veterans in the state. The report must include the number of veterans receiving services from the program, the location of such services, and an analysis of areas of the state that are lacking these services. The report must also include recommendations for how to phase in an expansion of these services to these areas.

(2) This section expires December 31, 2024.

Sec. 3. RCW 43.60A.101 and 2017 c 192 s 5 are each amended to read as follows:

(1) By ((~~December 31, 2018~~)) September 30, 2024, the department ((~~of veterans affairs~~)) must submit a report to the legislature on the veteran peer-to-peer training and support program authorized in RCW 43.60A.100 to determine the effectiveness of the program in meeting the needs of veterans in the state. The report must include the number of veterans receiving peer-to-peer support and the location of such support services; the number of veterans trained through the program to provide peer-to-peer support; and the types of training and support services provided by the program. The report must also include an analysis of ((~~peer-to-peer training and support programs developed by other states, as well as in the private and nonprofit sectors, in order to evaluate best practices for implementing and managing the veteran peer-to-peer training and support program authorized in RCW 43.60A.100~~)) areas of the state that do not have these support services and are in need of these services, including recommendations for how to phase in an expansion of these services to these areas.

(2) This section expires December 31, 2024.

NEW SECTION. **Sec. 4.** A new section is added to chapter 43.60A RCW to read as follows:

It is the intent of the legislature to increase state appropriations for veterans service officer and peer mentoring programs with this act. As a result, and subject to the availability of amounts appropriated for this specific purpose, the department shall provide grants to counties of the state in order to develop or expand veterans service officer programs, peer-to-peer support programs, and other services and programs to assist veterans in areas where these programs and services are needed. In distributing these grants, the department must prioritize counties with smaller populations and counties that are below the national average in the percentage of veterans receiving federal disability or pension compensation.

Passed by the Senate March 6, 2023.
Passed by the House April 12, 2023.
Approved by the Governor May 1, 2023.
Filed in Office of Secretary of State May 2, 2023.

CHAPTER 225

[Substitute Senate Bill 5374]

GROWTH MANAGEMENT—COUNTY CRITICAL AREA REGULATIONS—ADOPTION BY CITIES

AN ACT Relating to the adoption of county critical area ordinances by cities; amending RCW 36.70A.060; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** The growth management act has been in place for over 30 years. As time has passed, the legislature has found that the act needs to be adjusted to accommodate difficulties that have been encountered over time. The legislature finds that small cities should be able to adopt the critical areas ordinances of the counties pursuant to the advice of the work group engaged to make such positive changes to the act.

Sec. 2. RCW 36.70A.060 and 2017 3rd sp.s. c 18 s 3 are each amended to read as follows:

(1)(a) Each county that is required or chooses to plan under RCW 36.70A.040, and each city within such county, shall adopt development regulations on or before September 1, 1991, to assure the conservation of agricultural, forest, and mineral resource lands designated under RCW 36.70A.170. Regulations adopted under this subsection may not prohibit uses legally existing on any parcel prior to their adoption and shall remain in effect until the county or city adopts development regulations pursuant to RCW 36.70A.040. Such regulations shall assure that the use of lands adjacent to agricultural, forest, or mineral resource lands shall not interfere with the continued use, in the accustomed manner and in accordance with best management practices, of these designated lands for the production of food, agricultural products, or timber, or for the extraction of minerals. Any county located to the west of the crest of the Cascade mountains that has both a population of at least four hundred thousand and a border that touches another state, and any city in such county, may adopt development regulations to assure that agriculture, forest, and mineral resource lands adjacent to short line railroads may be developed for freight rail dependent uses.

(b) Counties and cities shall require that all plats, short plats, development permits, and building permits issued for development activities on, or within five hundred feet of, lands designated as agricultural lands, forestlands, or mineral resource lands, contain a notice that the subject property is within or near designated agricultural lands, forestlands, or mineral resource lands on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration. The notice for mineral resource lands shall also inform that an application might be made for mining-related activities, including mining, extraction, washing, crushing, stockpiling, blasting, transporting, and recycling of minerals.

(c) Each county that adopts a resolution of partial planning under RCW 36.70A.040(2)(b), and each city within such county, shall adopt development regulations within one year after the adoption of the resolution of partial planning to assure the conservation of agricultural, forest, and mineral resource lands designated under RCW 36.70A.170. Regulations adopted under this subsection (1)(c) must comply with the requirements governing regulations adopted under (a) of this subsection.

(d)(i) A county that adopts a resolution of partial planning under RCW 36.70A.040(2)(b) and that is not in compliance with the planning requirements of this section, RCW 36.70A.040(4), 36.70A.070(5), 36.70A.170, and 36.70A.172 at the time the resolution is adopted must, by January 30, 2017, apply for a determination of compliance from the department finding that the county's development regulations, including development regulations adopted to protect critical areas, and comprehensive plans are in compliance with the requirements of this section, RCW 36.70A.040(4), 36.70A.070(5), 36.70A.170, and 36.70A.172. The department must approve or deny the application for a determination of compliance within one hundred twenty days of its receipt or by June 30, 2017, whichever date is earlier.

(ii) If the department denies an application under (d)(i) of this subsection, the county and each city within is obligated to comply with all requirements of this chapter and the resolution for partial planning adopted under RCW 36.70A.040(2)(b) is no longer in effect.

(iii) A petition for review of a determination of compliance under (d)(i) of this subsection may only be appealed to the growth management hearings board within ((~~sixty~~)) 60 days of the issuance of the decision by the department.

(iv) In the event of a filing of a petition in accordance with (d)(iii) of this subsection, the county and the department must equally share the costs incurred by the department for defending an approval of determination of compliance that is before the growth management hearings board.

(v) The department may implement this subsection (1)(d) by adopting rules related to determinations of compliance. The rules may address, but are not limited to: The requirements for applications for a determination of compliance; charging of costs under (d)(iv) of this subsection; procedures for processing applications; criteria for the evaluation of applications; issuance and notice of department decisions; and applicable timelines.

(e) Any county that borders both the Cascade mountains and another country and has a population of less than fifty thousand people, and any city in such county, may adopt development regulations to assure that agriculture,

forest, and mineral resource lands adjacent to short line railroads may be developed for freight rail dependent uses.

(2) Each county and city shall adopt development regulations that protect critical areas that are required to be designated under RCW 36.70A.170. For counties and cities that are required or choose to plan under RCW 36.70A.040, such development regulations shall be adopted on or before September 1, 1991. For the remainder of the counties and cities, such development regulations shall be adopted on or before March 1, 1992.

(3) Such counties and cities shall review these designations and development regulations when adopting their comprehensive plans under RCW 36.70A.040 and implementing development regulations under RCW 36.70A.120 and may alter such designations and development regulations to ((~~insure~~)) ensure consistency.

(4)(a) A city with a population fewer than 25,000 may adopt the county's critical areas regulations by reference to satisfy the requirements under this section to designate and protect critical areas; provided, that the county's critical areas regulations are not subject to any outstanding administrative or judicial appeals at the time of the city's adoption. Nothing in this subsection prohibits a city from adopting its own critical areas regulations.

(b) The city legislative action adopting the county regulations by reference must incorporate future amendments to the critical areas policies and development regulations of the county.

(c) A city that adopts the county's critical areas regulations by reference is not required to take legislative action to review and update development regulations protecting critical areas under RCW 36.70A.130.

(d) If grant funding is available for a local jurisdiction's periodic comprehensive planning updates as required in RCW 36.70A.070, and a city has adopted by reference the county's critical areas regulations as allowed in (a) through (c) of this subsection, the county in which the city is located shall be entitled to the portion of the city's grant funding that would otherwise have been utilized for updating the city's critical areas regulations. The department is authorized to determine what portion of the available grant funding the city would have received for the critical areas regulations update the county is entitled to receive.

(5) Forestland and agricultural land located within urban growth areas shall not be designated by a county or city as forestland or agricultural land of long-term commercial significance under RCW 36.70A.170 unless the city or county has enacted a program authorizing transfer or purchase of development rights.

Passed by the Senate March 1, 2023.
Passed by the House April 11, 2023.
Approved by the Governor May 1, 2023.
Filed in Office of Secretary of State May 2, 2023.

CHAPTER 226

[Substitute Senate Bill 5381]

LEGISLATORS—LETTERS OF RECOMMENDATION OR CONGRATULATIONS

AN ACT Relating to letters of recommendation or congratulations sent by legislators; and adding a new section to chapter 42.52 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** A new section is added to chapter 42.52 RCW to read as follows:

It is not a violation of this chapter for a legislator to send by mail or email:

(1) A letter of recommendation on behalf of an individual constituent if the constituent has requested the letter;

(2) A congratulatory letter to an individual constituent who has received an award or honor of extraordinary distinction of a type that is sufficiently infrequent to be noteworthy to a reasonable person including, but not limited to: (a) An international or national award such as the Nobel prize or the Pulitzer prize; (b) a state award such as Washington scholar; (c) an Eagle Scout award; or (d) a Medal of Honor; or

(3) Except when under a mailing restriction as provided in RCW 42.52.185, a congratulatory letter to an individual constituent who has received an honor or award if the individual or a third party on the individual's behalf has requested the letter.

Passed by the Senate February 15, 2023.
Passed by the House April 10, 2023.
Approved by the Governor May 1, 2023.
Filed in Office of Secretary of State May 2, 2023.

CHAPTER 227

[Substitute Senate Bill 5433]

DERELICT AQUATIC STRUCTURES

AN ACT Relating to derelict aquatic structures; and adding a new chapter to Title 79 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature finds that nearshore habitat is amongst the most important for threatened and endangered species of salmon, yet nearshore habitat in populated areas is often negatively impacted by man-made structures. There is a growing problem where aquatic or overwater structures become derelict or fall into disrepair. These derelict aquatic structures are public nuisances and safety hazards as they can pose risks to navigation, harm nearshore habitat for threatened and endangered species, detract from the aesthetics of Washington's waterfronts, and threaten the environment with the potential release of hazardous materials.

(2) The legislature further finds that the costs associated with the proper removal or repair of derelict aquatic structures are substantial and that in many cases owners of these structures lack the financial means to address the safety and environmental hazards the structures pose. As a result, the costs associated with the removal or repair of derelict structures becomes a burden on public entities and the taxpaying public.

(3) The legislature also finds that removal of derelict aquatic structures and restoration of surrounding habitat improves nearshore habitat quality.

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

(1) "Aquatic lands" means all tidelands, shorelands, harbor areas, and the beds of navigable waters, including lands owned by the state and lands owned by other public or private entities.

(2) "Department" means the department of natural resources.

(3) "Derelict aquatic structure" means overwater and in-water structures where, as a result of catastrophic damage or disuse or neglect, conditions exist that make the structure unsafe for use, pose a hazard, or pose risks to public health or safety or the surrounding environment. Factors that indicate an aquatic structure is derelict include, but are not limited to, structures that:

(a) Are unsecured;

(b) Are abandoned and partially constructed;

(c) Are at risk of partial or full collapse;

(d) Are dilapidated by being in a state of disrepair due to catastrophic damage or disuse or neglect;

(e) Have received a notice from a building or safety authority with jurisdiction that identified structural defects that prohibit the structure from being used;

(f) Increase the risk of fire, accident, or environmental harm; or

(g) Otherwise represent a risk to public or environmental health or safety.

(4) "Owner" means any natural person, firm, partnership, corporation, association, government entity, or organization that has a lawful right to possession of a structure by purchase, exchange, gift, lease, inheritance, or legal action whether or not the structure is subject to a security interest.

NEW SECTION. **Sec. 3.** (1) To the extent not granted under other statutes, the department is granted authority to purchase, or acquire through gift, exchange, or other transfer, lands and facilities to carry out the purposes of this title. Following purchase or acquisition, the department also has the authority, subject to the processes and limitations of this chapter, to remove, salvage, scrap, dispose of, refurbish, or repurpose a derelict aquatic structure found on or above aquatic lands within the jurisdiction of the department. Any removal and disposal must be done in an environmentally sound manner and in accordance with all federal, state, and local laws, including the state solid waste disposal provisions provided for in chapter 70A.205 RCW.

(2) The primary responsibility to remove a derelict aquatic structure belongs to the owner or lessee of the structure, and secondarily to the department when it has jurisdiction over the aquatic lands on which the structure lies.

NEW SECTION. **Sec. 4.** (1) Derelict aquatic structures will be disposed of by the department or an approved contractor in any appropriate and environmentally sound manner.

(2) Preference must be given to the least costly, environmentally sound, reasonable disposal option. Any disposal operations must be consistent with the requirements of all permitting authorities and state solid waste disposal provisions provided for in chapter 70A.205 RCW.

NEW SECTION. **Sec. 5.** (1) The department shall submit all qualifying derelict aquatic structure removal projects or project elements on aquatic lands not managed by a port district under RCW 79.105.420 to the Puget Sound partnership nearshore credits program or other similar mitigation credit

programs to generate conservation credits to help federal permit applicants meet obligations to offset impacts from their aquatic projects.

(2) Any payments or revenues the department receives from the sale of credits in the nearshore credits program or other similar mitigation credit program must be directed to the derelict structure removal account.

NEW SECTION. **Sec. 6.** (1)(a) The derelict structure removal account is created in the state treasury. All receipts from mitigation credit programs and those moneys specified must be deposited into the account. The account is authorized to receive fund transfers and appropriations from the general fund, as well as gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of this chapter and expend the same or any income according to the terms of the gifts, grants, or endowments provided those terms do not conflict with any provisions of this section or any guidelines developed to prioritize reimbursement of projects associated with this chapter.

(b) Funds in the account resulting from transfers from the general fund should be prioritized for the removal of large structures.

(c) Moneys in the account may only be spent after appropriation.

(2) Priority for use of this account is for the removal, remediation, and revitalization of derelict aquatic structures that are in danger of collapsing, breaking up, or blocking navigation channels, or that present environmental risks or significant habitat impacts. The department must develop criteria, in the form of informal guidelines, to prioritize removal projects associated with this chapter, but may not consider whether the applicant is a state or local entity when prioritizing by January 1, 2024.

NEW SECTION. **Sec. 7.** The department may enter into a contract with a private company, individuals, tribal nation, or state and local government agencies to carry out the authority granted in this chapter.

NEW SECTION. **Sec. 8.** The department shall establish a grant program for lessees of state-owned aquatic land who need financial assistance to comply with the department's habitat stewardship measures for the protection of nearshore habitat. The department shall establish grant eligibility criteria and amounts by July 1, 2024.

NEW SECTION. **Sec. 9.** The department may also acquire aquatic structures and facilities that do not meet the definition of derelict aquatic structures, but which could provide habitat benefits or amenities for the local community if either refurbished or repurposed, or both. The department may partner with a local government, government agency, tribal nation or corporation, or nonprofit group to refurbish or repurpose an aquatic structure or facility.

NEW SECTION. **Sec. 10.** (1) This chapter is not intended to limit or constrain the ability and authority of any entity to enact and enforce ordinances or other regulations relating to derelict aquatic structures, or to take any actions authorized by federal or state law in responding to derelict or abandoned structures. This chapter is also not intended to be the sole remedy available to the department against the owners of derelict aquatic structures.

(2) The rights granted by this chapter are in addition to any other legal rights the department may have to obtain title to, remove, recover, sell, or dispose of a

derelict aquatic structure, and in no way does this chapter alter those rights, or affect the priority of other liens on a structure.

NEW SECTION. **Sec. 11.** Sections 1 through 10 of this act constitute a new chapter in Title 79 RCW.

Passed by the Senate March 6, 2023.
Passed by the House April 11, 2023.
Approved by the Governor May 1, 2023.
Filed in Office of Secretary of State May 2, 2023.

CHAPTER 228

[Engrossed Second Substitute House Bill 1181]

CLIMATE CHANGE—PLANNING

AN ACT Relating to improving the state's climate response through updates to the state's planning framework; amending RCW 36.70A.020, 36.70A.480, 36.70A.280, 36.70A.320, 36.70A.190, 86.12.200, 36.70A.030, and 70A.125.180; reenacting and amending RCW 36.70A.070 and 36.70A.130; adding new sections to chapter 36.70A RCW; adding a new section to chapter 70A.45 RCW; adding a new section to chapter 47.80 RCW; adding a new section to chapter 90.58 RCW; adding a new section to chapter 43.21C RCW; adding a new section to chapter 43.20 RCW; creating a new section; and providing an expiration date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. RCW 36.70A.020 and 2021 c 254 s 1 are each amended to read as follows:

The following goals are adopted to guide the development and adoption of comprehensive plans and development regulations of those counties and cities that are required or choose to plan under RCW 36.70A.040 and, where specified, also guide the development of regional policies, plans, and strategies adopted under RCW 36.70A.210 and chapter 47.80 RCW. The following goals are not listed in order of priority and shall be used exclusively for the purpose of guiding the development of comprehensive plans ((~~and~~)), development regulations, and, where specified, regional plans, policies, and strategies:

(1) Urban growth. Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.

(2) Reduce sprawl. Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development.

(3) Transportation. Encourage efficient multimodal transportation systems that will reduce greenhouse gas emissions and per capita vehicle miles traveled, and are based on regional priorities and coordinated with county and city comprehensive plans.

(4) Housing. Plan for and accommodate housing affordable to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock.

(5) Economic development. Encourage economic development throughout the state that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, especially for unemployed and for disadvantaged persons, promote the retention and expansion of existing businesses and recruitment of new businesses, recognize regional differences impacting economic development opportunities, and encourage growth in areas

experiencing insufficient economic growth, all within the capacities of the state's natural resources, public services, and public facilities.

(6) Property rights. Private property shall not be taken for public use without just compensation having been made. The property rights of landowners shall be protected from arbitrary and discriminatory actions.

(7) Permits. Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.

(8) Natural resource industries. Maintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries. Encourage the conservation of productive forestlands and productive agricultural lands, and discourage incompatible uses.

(9) Open space and recreation. Retain open space and green space, enhance recreational opportunities, ((~~conserve~~)) enhance fish and wildlife habitat, increase access to natural resource lands and water, and develop parks and recreation facilities.

(10) Environment. Protect and enhance the environment and enhance the state's high quality of life, including air and water quality, and the availability of water.

(11) Citizen participation and coordination. Encourage the involvement of citizens in the planning process, including the participation of vulnerable populations and overburdened communities, and ensure coordination between communities and jurisdictions to reconcile conflicts.

(12) Public facilities and services. Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards.

(13) Historic preservation. Identify and encourage the preservation of lands, sites, and structures, that have historical or archaeological significance.

(14) Climate change and resiliency. Ensure that comprehensive plans, development regulations, and regional policies, plans, and strategies under RCW 36.70A.210 and chapter 47.80 RCW adapt to and mitigate the effects of a changing climate; support reductions in greenhouse gas emissions and per capita vehicle miles traveled; prepare for climate impact scenarios; foster resiliency to climate impacts and natural hazards; protect and enhance environmental, economic, and human health and safety; and advance environmental justice.

(15) Shorelines of the state. For shorelines of the state, the goals and policies of the shoreline management act as set forth in RCW 90.58.020 shall be considered an element of the county's or city's comprehensive plan.

Sec. 2. RCW 36.70A.480 and 2010 c 107 s 2 are each amended to read as follows:

(1) For shorelines of the state, the goals and policies of the shoreline management act as set forth in RCW 90.58.020 are added as one of the goals of this chapter as set forth in RCW 36.70A.020 without creating an order of priority among the ((~~fourteen~~)) 15 goals. The goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW shall be considered an element of the county or city's comprehensive plan. All other portions of the shoreline master program for a county or city adopted under

chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city's development regulations.

(2) The shoreline master program shall be adopted pursuant to the procedures of chapter 90.58 RCW rather than the goals, policies, and procedures set forth in this chapter for the adoption of a comprehensive plan or development regulations.

(3)(a) The policies, goals, and provisions of chapter 90.58 RCW and applicable guidelines shall be the sole basis for determining compliance of a shoreline master program with this chapter except as the shoreline master program is required to comply with the internal consistency provisions of RCW 36.70A.070, 36.70A.040(4), 35.63.125, and 35A.63.105.

(b) Except as otherwise provided in (c) of this subsection, development regulations adopted under this chapter to protect critical areas within shorelines of the state apply within shorelines of the state until the department of ecology approves one of the following: A comprehensive master program update, as defined in RCW 90.58.030; a segment of a master program relating to critical areas, as provided in RCW 90.58.090; or a new or amended master program approved by the department of ecology on or after March 1, 2002, as provided in RCW 90.58.080. The adoption or update of development regulations to protect critical areas under this chapter prior to department of ecology approval of a master program update as provided in this subsection is not a comprehensive or segment update to the master program.

(c)(i) Until the department of ecology approves a master program or segment of a master program as provided in (b) of this subsection, a use or structure legally located within shorelines of the state that was established or vested on or before the effective date of the local government's development regulations to protect critical areas may continue as a conforming use and may be redeveloped or modified if: (A) The redevelopment or modification is consistent with the local government's master program; and (B) the local government determines that the proposed redevelopment or modification will result in no net loss of shoreline ecological functions. The local government may waive this requirement if the redevelopment or modification is consistent with the master program and the local government's development regulations to protect critical areas.

(ii) For purposes of this subsection (3)(c), an agricultural activity that does not expand the area being used for the agricultural activity is not a redevelopment or modification. "Agricultural activity," as used in this subsection (3)(c), has the same meaning as defined in RCW 90.58.065.

(d) Upon department of ecology approval of a shoreline master program or critical area segment of a shoreline master program, critical areas within shorelines of the state are protected under chapter 90.58 RCW and are not subject to the procedural and substantive requirements of this chapter, except as provided in subsection (6) of this section. Nothing in chapter 321, Laws of 2003 or chapter 107, Laws of 2010 is intended to affect whether or to what extent agricultural activities, as defined in RCW 90.58.065, are subject to chapter 36.70A RCW.

(e) The provisions of RCW 36.70A.172 shall not apply to the adoption or subsequent amendment of a local government's shoreline master program and shall not be used to determine compliance of a local government's shoreline

master program with chapter 90.58 RCW and applicable guidelines. Nothing in this section, however, is intended to limit or change the quality of information to be applied in protecting critical areas within shorelines of the state, as required by chapter 90.58 RCW and applicable guidelines.

(4) Shoreline master programs shall provide a level of protection to critical areas located within shorelines of the state that assures no net loss of shoreline ecological functions necessary to sustain shoreline natural resources as defined by department of ecology guidelines adopted pursuant to RCW 90.58.060.

(5) Shorelines of the state shall not be considered critical areas under this chapter except to the extent that specific areas located within shorelines of the state qualify for critical area designation based on the definition of critical areas provided by RCW 36.70A.030(((~~(5)~~))) (6) and have been designated as such by a local government pursuant to RCW 36.70A.060(2).

(6) If a local jurisdiction's master program does not include land necessary for buffers for critical areas that occur within shorelines of the state, as authorized by RCW 90.58.030(2)(((~~(f)~~))) (d), then the local jurisdiction shall continue to regulate those critical areas and their required buffers pursuant to RCW 36.70A.060(2).

Sec. 3. RCW 36.70A.070 and 2022 c 246 s 2 and 2022 c 220 s 1 are each reenacted and amended to read as follows:

The comprehensive plan of a county or city that is required or chooses to plan under RCW 36.70A.040 shall consist of a map or maps, and descriptive text covering objectives, principles, and standards used to develop the comprehensive plan. The plan shall be an internally consistent document and all elements shall be consistent with the future land use map. A comprehensive plan shall be adopted and amended with public participation as provided in RCW 36.70A.140. Each comprehensive plan shall include a plan, scheme, or design for each of the following:

(1) A land use element designating the proposed general distribution and general location and extent of the uses of land, where appropriate, for agriculture, timber production, housing, commerce, industry, recreation, open spaces and green spaces, urban and community forests within the urban growth area, general aviation airports, public utilities, public facilities, and other land uses. The land use element shall include population densities, building intensities, and estimates of future population growth. The land use element shall provide for protection of the quality and quantity of groundwater used for public water supplies. The land use element must give special consideration to achieving environmental justice in its goals and policies, including efforts to avoid creating or worsening environmental health disparities. Wherever possible, the land use element should consider utilizing urban planning approaches that promote physical activity and reduce per capita vehicle miles traveled within the jurisdiction, but without increasing greenhouse gas emissions elsewhere in the state. Where applicable, the land use element shall review drainage, flooding, and stormwater runoff in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute waters of the state, including Puget Sound or waters entering Puget Sound. The land use element must reduce and mitigate the risk to lives and property posed by wildfires by using land use planning tools, which may include, but are not limited to, adoption of portions or all of the wildland

urban interface code developed by the international code council or developing building and maintenance standards consistent with the firewise USA program or similar program designed to reduce wildfire risk, reducing wildfire risks to residential development in high risk areas and the wildland urban interface area, separating human development from wildfire prone landscapes, and protecting existing residential development and infrastructure through community wildfire preparedness and fire adaptation measures.

(2) A housing element ensuring the vitality and character of established residential neighborhoods that:

(a) Includes an inventory and analysis of existing and projected housing needs that identifies the number of housing units necessary to manage projected growth, as provided by the department of commerce, including:

(i) Units for moderate, low, very low, and extremely low-income households; and

(ii) Emergency housing, emergency shelters, and permanent supportive housing;

(b) Includes a statement of goals, policies, objectives, and mandatory provisions for the preservation, improvement, and development of housing, including single-family residences, and within an urban growth area boundary, moderate density housing options including, but not limited to, duplexes, triplexes, and townhomes;

(c) Identifies sufficient capacity of land for housing including, but not limited to, government-assisted housing, housing for moderate, low, very low, and extremely low-income households, manufactured housing, multifamily housing, group homes, foster care facilities, emergency housing, emergency shelters, permanent supportive housing, and within an urban growth area boundary, consideration of duplexes, triplexes, and townhomes;

(d) Makes adequate provisions for existing and projected needs of all economic segments of the community, including:

(i) Incorporating consideration for low, very low, extremely low, and moderate-income households;

(ii) Documenting programs and actions needed to achieve housing availability including gaps in local funding, barriers such as development regulations, and other limitations;

(iii) Consideration of housing locations in relation to employment location; and

(iv) Consideration of the role of accessory dwelling units in meeting housing needs;

(e) Identifies local policies and regulations that result in racially disparate impacts, displacement, and exclusion in housing, including:

(i) Zoning that may have a discriminatory effect;

(ii) Disinvestment; and

(iii) Infrastructure availability;

(f) Identifies and implements policies and regulations to address and begin to undo racially disparate impacts, displacement, and exclusion in housing caused by local policies, plans, and actions;

(g) Identifies areas that may be at higher risk of displacement from market forces that occur with changes to zoning development regulations and capital investments; and

(h) Establishes antidisplacement policies, with consideration given to the preservation of historical and cultural communities as well as investments in low, very low, extremely low, and moderate-income housing; equitable development initiatives; inclusionary zoning; community planning requirements; tenant protections; land disposition policies; and consideration of land that may be used for affordable housing.

In counties and cities subject to the review and evaluation requirements of RCW 36.70A.215, any revision to the housing element shall include consideration of prior review and evaluation reports and any reasonable measures identified. The housing element should link jurisdictional goals with overall county goals to ensure that the housing element goals are met.

The adoption of ordinances, development regulations and amendments to such regulations, and other nonproject actions taken by a city that is required or chooses to plan under RCW 36.70A.040 that increase housing capacity, increase housing affordability, and mitigate displacement as required under this subsection (2) and that apply outside of critical areas are not subject to administrative or judicial appeal under chapter 43.21C RCW unless the adoption of such ordinances, development regulations and amendments to such regulations, or other nonproject actions has a probable significant adverse impact on fish habitat.

(3) A capital facilities plan element consisting of: (a) An inventory of existing capital facilities owned by public entities, <u>including green infrastructure,</u> showing the locations and capacities of the capital facilities; (b) a forecast of the future needs for such capital facilities; (c) the proposed locations and capacities of expanded or new capital facilities; (d) at least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes; and (e) a requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent. Park and recreation facilities shall be included in the capital facilities plan element.

<u>The county or city shall identify all public entities that own capital facilities and endeavor in good faith to work with other public entities, such as special purpose districts, to gather and include within its capital facilities element the information required by this subsection. If, after a good faith effort, the county or city is unable to gather the information required by this subsection from the other public entities, the failure to include such information in its capital facilities element cannot be grounds for a finding of noncompliance or invalidity under this act. A good faith effort must, at a minimum, include consulting the public entity's capital facility or system plans and emailing and calling the staff of the public entity.</u>

(4)<u>(a)</u> A utilities element consisting of the general location, proposed location, and capacity of all existing and proposed utilities((~~,~~)) including, but not limited to, electrical ((~~lines~~)), ((~~telecommunication lines~~)) <u>telecommunications</u>, and natural gas ((~~lines~~)) <u>systems</u>.

<u>(b) The county or city shall identify all public entities that own utility systems and endeavor in good faith to work with other public entities, such as special purpose districts, to gather and include within its utilities element the</u>

information required in (a) of this subsection. However, if, after a good faith effort, the county or city is unable to gather the information required in (a) of this subsection from the other public entities, the failure to include such information in the utilities element shall not be grounds for a finding of noncompliance or invalidity under this act. A good faith effort must, at a minimum, include consulting the public entity's capital facility or system plans, and emailing and calling the staff of the public entity.

(5) Rural element. Counties shall include a rural element including lands that are not designated for urban growth, agriculture, forest, or mineral resources. The following provisions shall apply to the rural element:

(a) Growth management act goals and local circumstances. Because circumstances vary from county to county, in establishing patterns of rural densities and uses, a county may consider local circumstances, but shall develop a written record explaining how the rural element harmonizes the planning goals in RCW 36.70A.020 and meets the requirements of this chapter.

(b) Rural development. The rural element shall permit rural development, forestry, and agriculture in rural areas. The rural element shall provide for a variety of rural densities, uses, essential public facilities, and rural governmental services needed to serve the permitted densities and uses. To achieve a variety of rural densities and uses, counties may provide for clustering, density transfer, design guidelines, conservation easements, and other innovative techniques that will accommodate appropriate rural economic advancement, densities, and uses that are not characterized by urban growth and that are consistent with rural character.

(c) Measures governing rural development. The rural element shall include measures that apply to rural development and protect the rural character of the area, as established by the county, by:

(i) Containing or otherwise controlling rural development;

(ii) Assuring visual compatibility of rural development with the surrounding rural area;

(iii) Reducing the inappropriate conversion of undeveloped land into sprawling, low-density development in the rural area;

(iv) Protecting critical areas, as provided in RCW 36.70A.060, and surface water and groundwater resources; and

(v) Protecting against conflicts with the use of agricultural, forest, and mineral resource lands designated under RCW 36.70A.170.

(d) Limited areas of more intensive rural development. Subject to the requirements of this subsection and except as otherwise specifically provided in this subsection (5)(d), the rural element may allow for limited areas of more intensive rural development, including necessary public facilities and public services to serve the limited area as follows:

(i) Rural development consisting of the infill, development, or redevelopment of existing commercial, industrial, residential, or mixed-use areas, whether characterized as shoreline development, villages, hamlets, rural activity centers, or crossroads developments.

(A) A commercial, industrial, residential, shoreline, or mixed-use area are subject to the requirements of (d)(iv) of this subsection, but are not subject to the requirements of (c)(ii) and (iii) of this subsection.

(B) Any development or redevelopment other than an industrial area or an industrial use within a mixed-use area or an industrial area under this subsection (5)(d)(i) must be principally designed to serve the existing and projected rural population.

(C) Any development or redevelopment in terms of building size, scale, use, or intensity may be permitted subject to confirmation from all existing providers of public facilities and public services of sufficient capacity of existing public facilities and public services to serve any new or additional demand from the new development or redevelopment. Development and redevelopment may include changes in use from vacant land or a previously existing use so long as the new use conforms to the requirements of this subsection (5) and is consistent with the local character. Any commercial development or redevelopment within a mixed-use area must be principally designed to serve the existing and projected rural population and must meet the following requirements:

(I) Any included retail or food service space must not exceed the footprint of previously occupied space or 5,000 square feet, whichever is greater, for the same or similar use; and

(II) Any included retail or food service space must not exceed 2,500 square feet for a new use;

(ii) The intensification of development on lots containing, or new development of, small-scale recreational or tourist uses, including commercial facilities to serve those recreational or tourist uses, that rely on a rural location and setting, but that do not include new residential development. A small-scale recreation or tourist use is not required to be principally designed to serve the existing and projected rural population. Public services and public facilities shall be limited to those necessary to serve the recreation or tourist use and shall be provided in a manner that does not permit low-density sprawl;

(iii) The intensification of development on lots containing isolated nonresidential uses or new development of isolated cottage industries and isolated small-scale businesses that are not principally designed to serve the existing and projected rural population and nonresidential uses, but do provide job opportunities for rural residents. Rural counties may allow the expansion of small-scale businesses as long as those small-scale businesses conform with the rural character of the area as defined by the local government according to RCW 36.70A.030(23). Rural counties may also allow new small-scale businesses to utilize a site previously occupied by an existing business as long as the new small-scale business conforms to the rural character of the area as defined by the local government according to RCW 36.70A.030(23). Public services and public facilities shall be limited to those necessary to serve the isolated nonresidential use and shall be provided in a manner that does not permit low-density sprawl;

(iv) A county shall adopt measures to minimize and contain the existing areas of more intensive rural development, as appropriate, authorized under this subsection. Lands included in such existing areas shall not extend beyond the logical outer boundary of the existing area, thereby allowing a new pattern of low-density sprawl. Existing areas are those that are clearly identifiable and contained and where there is a logical boundary delineated predominately by the built environment, but that may also include undeveloped lands if limited as provided in this subsection. The county shall establish the logical outer boundary of an area of more intensive rural development. In establishing the logical outer

boundary, the county shall address (A) the need to preserve the character of existing natural neighborhoods and communities, (B) physical boundaries, such as bodies of water, streets and highways, and land forms and contours, (C) the prevention of abnormally irregular boundaries, and (D) the ability to provide public facilities and public services in a manner that does not permit low-density sprawl;

(v) For purposes of this subsection (5)(d), an existing area or existing use is one that was in existence:

(A) On July 1, 1990, in a county that was initially required to plan under all of the provisions of this chapter;

(B) On the date the county adopted a resolution under RCW 36.70A.040(2), in a county that is planning under all of the provisions of this chapter under RCW 36.70A.040(2); or

(C) On the date the office of financial management certifies the county's population as provided in RCW 36.70A.040(5), in a county that is planning under all of the provisions of this chapter pursuant to RCW 36.70A.040(5).

(e) Exception. This subsection shall not be interpreted to permit in the rural area a major industrial development or a master planned resort unless otherwise specifically permitted under RCW 36.70A.360 and 36.70A.365.

(6) A transportation element that implements, and is consistent with, the land use element.

(a) The transportation element shall include the following subelements:

(i) Land use assumptions used in estimating travel;

(ii) Estimated ((~~traffic~~)) multimodal level of service impacts to state-owned transportation facilities resulting from land use assumptions to assist ((~~the department of transportation~~)) in monitoring the performance of state facilities, to plan improvements for the facilities, and to assess the impact of land-use decisions on state-owned transportation facilities;

(iii) Facilities and services needs, including:

(A) An inventory of air, water, and ground transportation facilities and services, including transit alignments, active transportation facilities, and general aviation airport facilities, to define existing capital facilities and travel levels ((~~as a basis for~~)) to inform future planning. This inventory must include state-owned transportation facilities within the city or county's jurisdictional boundaries;

(B) ((~~Level~~)) Multimodal level of service standards for all locally owned arterials ((~~and~~)), locally and regionally operated transit routes that serve urban growth areas, state-owned or operated transit routes that serve urban areas if the department of transportation has prepared such standards, and active transportation facilities to serve as a gauge to judge performance of the system and success in helping to achieve the goals of this chapter consistent with environmental justice. These standards should be regionally coordinated;

(C) For state-owned transportation facilities, multimodal level of service standards for highways, as prescribed in chapters 47.06 and 47.80 RCW, to gauge the performance of the system. The purposes of reflecting multimodal level of service standards for state highways in the local comprehensive plan are to monitor the performance of the system, to evaluate improvement strategies, and to facilitate coordination between the county's or city's six-year street, road, active transportation, or transit program and the office of financial management's

ten-year investment program. The concurrency requirements of (b) of this subsection do not apply to transportation facilities and services of statewide significance except for counties consisting of islands whose only connection to the mainland are state highways or ferry routes. In these island counties, state highways and ferry route capacity must be a factor in meeting the concurrency requirements in (b) of this subsection;

(D) Specific actions and requirements for bringing into compliance ((~~locally owned~~)) transportation facilities or services that are below an established multimodal level of service standard;

(E) Forecasts of ((~~traffic~~)) multimodal transportation demand and needs within cities and urban growth areas, and forecasts of multimodal transportation demand and needs outside of cities and urban growth areas, for at least ten years based on the adopted land use plan to ((~~provide information on the location, timing, and capacity needs of future growth~~)) inform the development of a transportation element that balances transportation system safety and convenience to accommodate all users of the transportation system to safely, reliably, and efficiently provide access and mobility to people and goods. Priority must be given to inclusion of transportation facilities and services providing the greatest multimodal safety benefit to each category of roadway users for the context and speed of the facility;

(F) Identification of state and local system needs to equitably meet current and future demands. Identified needs on state-owned transportation facilities must be consistent with the statewide multimodal transportation plan required under chapter 47.06 RCW. Local system needs should reflect the regional transportation system and local goals, and strive to equitably implement the multimodal network;

(G) A transition plan for transportation as required in Title II of the Americans with disabilities act of 1990 (ADA). As a necessary step to a program access plan to provide accessibility under the ADA, state and local government, public entities, and public agencies are required to perform self-evaluations of their current facilities, relative to accessibility requirements of the ADA. The agencies are then required to develop a program access plan, which can be called a transition plan, to address any deficiencies. The plan is intended to achieve the following:

(I) Identify physical obstacles that limit the accessibility of facilities to individuals with disabilities;

(II) Describe the methods to be used to make the facilities accessible;

(III) Provide a schedule for making the access modifications; and

(IV) Identify the public officials responsible for implementation of the transition plan;

(iv) Finance, including:

(A) An analysis of funding capability to judge needs against probable funding resources;

(B) A multiyear financing plan based on the needs identified in the comprehensive plan, the appropriate parts of which shall serve as the basis for the six-year street, road, or transit program required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems. The multiyear financing plan should be coordinated with

the ten-year investment program developed by the office of financial management as required by RCW 47.05.030;

(C) If probable funding falls short of meeting the identified needs of the transportation system, including state transportation facilities, a discussion of how additional funding will be raised, or how land use assumptions will be reassessed to ensure that level of service standards will be met;

(v) Intergovernmental coordination efforts, including an assessment of the impacts of the transportation plan and land use assumptions on the transportation systems of adjacent jurisdictions;

(vi) Demand-management strategies;

(vii) ((~~Pedestrian and bicycle~~)) Active transportation component to include collaborative efforts to identify and designate planned improvements for ((~~pedestrian and bicycle~~)) active transportation facilities and corridors that address and encourage enhanced community access and promote healthy lifestyles.

(b) After adoption of the comprehensive plan by jurisdictions required to plan or who choose to plan under RCW 36.70A.040, local jurisdictions must adopt and enforce ordinances which prohibit development approval if the development causes the level of service on a locally owned or locally or regionally operated transportation facility to decline below the standards adopted in the transportation element of the comprehensive plan, unless transportation improvements or strategies to accommodate the impacts of development are made concurrent with the development. These strategies may include ((~~increased~~)) active transportation facility improvements, increased or enhanced public transportation service, ride-sharing programs, demand management, and other transportation systems management strategies. For the purposes of this subsection (6), "concurrent with the development" means that improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years. If the collection of impact fees is delayed under RCW 82.02.050(3), the six-year period required by this subsection (6)(b) must begin after full payment of all impact fees is due to the county or city. A development proposal may not be denied for causing the level of service on a locally owned or locally or regionally operated transportation facility to decline below the standards adopted in the transportation element of the comprehensive plan where such impacts could be adequately mitigated through active transportation facility improvements, increased or enhanced public transportation service, ride-sharing programs, demand management, or other transportation systems management strategies funded by the development.

(c) The transportation element described in this subsection (6), the six-year plans required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems, and the ten-year investment program required by RCW 47.05.030 for the state, must be consistent.

(7) An economic development element establishing local goals, policies, objectives, and provisions for economic growth and vitality and a high quality of life. A city that has chosen to be a residential community is exempt from the economic development element requirement of this subsection.

(8) A park and recreation element that implements, and is consistent with, the capital facilities plan element as it relates to park and recreation facilities.

The element shall include: (a) Estimates of park and recreation demand for at least a ten-year period; (b) an evaluation of facilities and service needs; (c) an evaluation of tree canopy coverage within the urban growth area; and (((~~(c)~~))) (d) an evaluation of intergovernmental coordination opportunities to provide regional approaches for meeting park and recreational demand.

(9)(a) A climate change and resiliency element that is designed to result in reductions in overall greenhouse gas emissions and that must enhance resiliency to and avoid the adverse impacts of climate change, which must include efforts to reduce localized greenhouse gas emissions and avoid creating or worsening localized climate impacts to vulnerable populations and overburdened communities.

(b) The climate change and resiliency element shall include the following subelements:

(i) A greenhouse gas emissions reduction subelement;

(ii) A resiliency subelement.

(c) The greenhouse gas emissions reduction subelement of the climate change and resiliency element is mandatory for the jurisdictions specified in section 4(1) of this act and is encouraged for all other jurisdictions, including those planning under RCW 36.70A.040 and those planning under chapter 36.70 RCW. The resiliency subelement of the climate change and resiliency element is mandatory for all jurisdictions planning under RCW 36.70A.040 and is encouraged for those jurisdictions planning under chapter 36.70 RCW.

(d)(i) The greenhouse gas emissions reduction subelement of the comprehensive plan, and its related development regulations, must identify the actions the jurisdiction will take during the planning cycle consistent with the guidelines published by the department pursuant to section 5 of this act that will:

(A) Result in reductions in overall greenhouse gas emissions generated by transportation and land use within the jurisdiction but without increasing greenhouse gas emissions elsewhere in the state;

(B) Result in reductions in per capita vehicle miles traveled within the jurisdiction but without increasing greenhouse gas emissions elsewhere in the state; and

(C) Prioritize reductions that benefit overburdened communities in order to maximize the cobenefits of reduced air pollution and environmental justice.

(ii) Actions not specifically identified in the guidelines developed by the department pursuant to section 5 of this act may be considered consistent with these guidelines only if:

(A) They are projected to achieve greenhouse gas emissions reductions or per capita vehicle miles traveled reductions equivalent to what would be required of the jurisdiction under the guidelines adopted by the department; and

(B) They are supported by scientifically credible projections and scenarios that indicate their adoption is likely to result in reductions of greenhouse gas emissions or per capita vehicle miles traveled.

(iii) A jurisdiction may not restrict population growth or limit population allocation in order to achieve the requirements set forth in this subsection (9)(d).

(e)(i) The resiliency subelement must equitably enhance resiliency to, and avoid or substantially reduce the adverse impacts of, climate change in human communities and ecological systems through goals, policies, and programs consistent with the best available science and scientifically credible climate

projections and impact scenarios that moderate or avoid harm, enhance the resiliency of natural and human systems, and enhance beneficial opportunities. The resiliency subelement must prioritize actions that benefit overburdened communities that will disproportionately suffer from compounding environmental impacts and will be most impacted by natural hazards due to climate change. Specific goals, policies, and programs of the resiliency subelement must include, but are not limited to, those designed to:

(A) Identify, protect, and enhance natural areas to foster resiliency to climate impacts, as well as areas of vital habitat for safe passage and species migration;

(B) Identify, protect, and enhance community resiliency to climate change impacts, including social, economic, and built environment factors, that support adaptation to climate impacts consistent with environmental justice; and

(C) Address natural hazards created or aggravated by climate change, including sea level rise, landslides, flooding, drought, heat, smoke, wildfire, and other effects of changes to temperature and precipitation patterns.

(ii) A natural hazard mitigation plan or similar plan that is guided by RCW 36.70A.020(14), that prioritizes actions that benefit overburdened communities, and that complies with the applicable requirements of this chapter, including the requirements set forth in this subsection (9)(e), may be adopted by reference to satisfy these requirements, except that to the extent any of the substantive requirements of this subsection (9)(e) are not addressed, or are inadequately addressed, in the referenced natural hazard mitigation plan, a county or city must supplement the natural hazard mitigation plan accordingly so that the adopted resiliency subelement complies fully with the substantive requirements of this subsection (9)(e).

(A) If a county or city intends to adopt by reference a federal emergency management agency natural hazard mitigation plan in order to meet all or part of the substantive requirements set forth in this subsection (9)(e), and the most recently adopted federal emergency management agency natural hazard mitigation plan does not comply with the requirements of this subsection (9)(e), the department may grant the county or city an extension of time in which to submit a natural hazard mitigation plan.

(B) Eligibility for an extension under this subsection prior to July 1, 2027, is limited to a city or county required to review and, if needed, revise its comprehensive plan on or before June 30, 2025, as provided in RCW 36.70A.130, or for a city or county with an existing, unexpired federal emergency management agency natural hazard mitigation plan scheduled to expire before December 31, 2024.

(C) Extension requests after July 1, 2027, may be granted if requirements for the resiliency subelement are amended or added by the legislature or if the department finds other circumstances that may result in a potential finding of noncompliance with a jurisdiction's existing and approved federal emergency management agency natural hazard mitigation plan.

(D) A city or county that wishes to request an extension of time must submit a request in writing to the department no later than the date on which the city or county is required to review and, if needed, revise its comprehensive plan as provided in RCW 36.70A.130.

(E) Upon the submission of such a request to the department, the city or county may have an additional 48 months from the date provided in RCW 36.70A.130 in which to either adopt by reference an updated federal emergency management agency natural hazard mitigation plan or adopt its own natural hazard mitigation plan, and to then submit that plan to the department.

(F) The adoption of ordinances, amendments to comprehensive plans, amendments to development regulations, and other nonproject actions taken by a county or city pursuant to (d) of this subsection in order to implement measures specified by the department pursuant to section 5 of this act are not subject to administrative or judicial appeal under chapter 43.21C RCW.

(10) It is the intent that new or amended elements required after January 1, 2002, be adopted concurrent with the scheduled update provided in RCW 36.70A.130. Requirements to incorporate any such new or amended elements shall be null and void until funds sufficient to cover applicable local government costs are appropriated and distributed by the state at least two years before local government must update comprehensive plans as required in RCW 36.70A.130.

NEW SECTION. **Sec. 4.** A new section is added to chapter 36.70A RCW to read as follows:

(1) The requirements of the greenhouse gas emissions reduction subelement of the climate change and resiliency element set forth in RCW 36.70A.070 apply only to those counties that are required or that choose to plan under RCW 36.70A.040 and that also meet either of the criteria set forth in (a), (b), or (c) of this subsection on or after April 1, 2021, and the cities with populations greater than 6,000 as of April 1, 2021, within those counties:

(a) A county with a population density of at least 100 people per square mile and a population of at least 200,000;

(b) A county bordering on the Columbia and Snake rivers with a population density of at least 75 people per square mile and an annual growth rate of at least 1.65 percent; or

(c) A county located to the west of the crest of the Cascade mountains with a population of at least 130,000.

(2) The requirements of the amendments to the transportation element of RCW 36.70A.070 set forth in this act apply only to: (a) Counties and cities that meet the population criteria set forth in subsection (1) of this section; and (b) cities with populations of 6,000 or greater as of April 1, 2021, that are located in a county that is required or that chooses to plan under RCW 36.70A.040.

(3) The requirements of the amendments to the land use element of RCW 36.70A.070 set forth in this act apply only to: (a) Counties and cities that meet the population criteria set forth in subsection (1) or (2) of this section; and (b) counties that have a population of 20,000 or greater as of April 1, 2021, and that are required or that choose to plan under RCW 36.70A.040.

(4) Once a county meets either of the sets of criteria set forth in subsection (1) of this section, the requirement to conform with the greenhouse gas emissions reduction subelement of the climate change and resiliency element set forth in RCW 36.70A.070 remains in effect, even if the county no longer meets one of these sets of criteria.

(5) If the population of a county that previously had not been required to conform with the greenhouse gas emissions reduction subelement of the climate change and resiliency element set forth in RCW 36.70A.070 changes sufficiently

to meet either of the sets of criteria set forth in subsection (1) of this section, the county, and the cities with populations greater than 6,000 as of April 1, 2021, within that county, shall adopt a greenhouse gas emissions reduction subelement of the climate change and resiliency element set forth in RCW 36.70A.070 at the next scheduled update of the comprehensive plan as set forth in RCW 36.70A.130.

(6) The population criteria used in this section must be based on population data as determined by the office of financial management.

NEW SECTION. **Sec. 5.** A new section is added to chapter 70A.45 RCW to read as follows:

(1) The department of commerce, in consultation with the department of ecology, the department of health, and the department of transportation, shall publish guidelines that specify a set of measures counties and cities may implement via updates to their comprehensive plans and development regulations that have a demonstrated ability to increase housing capacity within urban growth areas or reduce greenhouse gas emissions, allowing for consideration of the emissions reductions achieved through the adoption of statewide programs. The guidelines must prioritize measures that benefit overburdened communities, including communities that have experienced disproportionate harm due to air pollution and may draw upon the most recent health disparities data from the department of health to identify high pollution areas and disproportionately burdened communities. These guidelines must be developed consistent with an environmental justice assessment pursuant to RCW 70A.02.060 and the guidelines must include environmental justice assessment processes. The guidelines must be based on:

(a) The most recent greenhouse gas emissions report prepared by the department of ecology and the department of commerce pursuant to RCW 70A.45.020(2);

(b) The most recent city and county population estimates prepared by the office of financial management pursuant to RCW 43.62.035;

(c) The locations of major employment centers and transit corridors, for the purpose of increasing housing supply in these areas; and

(d) Available environmental justice data and data regarding access to public transportation for people with disabilities and for vulnerable populations.

(2)(a) The department of commerce, in consultation with the department of transportation, shall publish guidelines that specify a set of measures counties and cities may have available to them to take through updates to their comprehensive plans and development regulations that have a demonstrated ability to reduce per capita vehicle miles traveled, including measures that are designed to be achievable throughout the state, including in small cities and rural cities.

(b) The guidelines must be based on:

(i) The most recent greenhouse gas emissions report prepared by the department of ecology and the department of commerce pursuant to RCW 70A.45.020(2);

(ii) The most recent city and county population estimates prepared by the office of financial management pursuant to RCW 43.62.035; and

(iii) The most recent summary of per capita vehicle miles traveled as compiled by the department of transportation.

(3) The department of commerce shall first publish the full set of guidelines described in subsections (1) and (2) of this section no later than December 31, 2025. The department of commerce shall update these guidelines at least every five years thereafter based on the most recently available data, and shall provide for a process for local governments and other parties to submit alternative actions for consideration for inclusion into the guidelines at least once per year. The department of commerce shall publish an intermediate set of guidelines no later than December 31, 2023, in order to be available for use by jurisdictions whose periodic updates are required by RCW 36.70A.130(5) to occur prior to December 31, 2025. Jurisdictions whose periodic updates are required by RCW 36.70A.130(5)(b) may utilize the intermediate set of guidelines published by the department of commerce to meet the requirements of RCW 36.70A.070(9).

(4)(a) In any updates to the guidelines published after 2025, the department of commerce shall include an evaluation of the impact that locally adopted climate change and resiliency elements have had on local greenhouse gas emissions and per capita vehicle miles traveled reduction goals. The evaluation must also address the impact that locally adopted greenhouse gas emissions reduction subelements have had on meeting local housing goals and targets.

(b) The updates must also include an estimate of the impacts that locally adopted climate change and resiliency elements will have on achieving local greenhouse gas emissions and per capita vehicle miles traveled reduction goals. The evaluation must also include an estimate of the impact that locally adopted greenhouse gas emissions reduction subelements will have on meeting local housing goals and targets.

(c) The department may include in the specified guidelines what additional measures cities and counties should take to make additional progress on local reduction goals, including any measures that increase housing capacity within urban growth areas.

(5) The department of commerce may not propose or adopt any guidelines that would include any form of a road usage charge or any fees or surcharges related to vehicle miles traveled.

(6) The department of commerce may not propose or adopt any guidelines that would direct or require local governments to regulate or tax, in any form, transportation service providers, delivery vehicles, or passenger vehicles.

(7) The department of commerce, in the course of implementing this section, shall provide and prioritize options that support increased housing supply and diversity of housing types that assist counties and cities in meeting greenhouse gas emissions reduction, housing supply, and other requirements established under this chapter.

(8) The provisions of this section as applied to the department of transportation are subject to the availability of amounts appropriated for this specific purpose.

(9) For purposes of this section, "overburdened communities" and "vulnerable populations" means the same as provided in RCW 36.70A.030.

NEW SECTION. **Sec. 6.** A new section is added to chapter 36.70A RCW to read as follows:

(1) A county or city required to complete a greenhouse gas emissions reduction subelement may submit the subelement to the department for approval. When submitted to the department for approval, the subelement

becomes effective when approved by the department as provided in this section. If a county or city does not seek department approval of the subelement, the effective date of the subelement is the date on which the comprehensive plan is adopted by the county or city.

(2) Notice of intent to apply for approval. (a) Not less than 120 days prior to applying for approval of a subelement, the county or city must notify the department in writing that it intends to apply for approval. The department shall review proposed subelements prior to final adoption and advise the county or city of the actions necessary to receive approval.

(b) The department may consult with other relevant state agencies in making its determination.

(c) The department shall publish notice in the Washington State Register that a city or county has notified the department of its intent to apply for approval and the department shall post a copy of the notice on the department website.

(3) Procedures for an application for approval. (a) After taking final action to adopt a greenhouse gas emissions reduction subelement, a city or county may apply to the department for approval of the subelement. A city or county must submit its application to the department within 10 days of taking final action.

(b) An application for approval must include, at a minimum, the following:

(i) A cover letter from the legislative authority requesting approval;

(ii) A copy of the adopted ordinance or resolution taking the legislative action or actions required to adopt the greenhouse gas emissions reduction subelement;

(iii) A statement explaining how the adopted subelement complies with the provisions of this chapter; and

(iv) A copy of the record developed by the city or county at any public meetings or public hearings at which action was taken on the greenhouse gas emissions reduction subelement.

(c) For purposes of this subsection, the terms "action" and "meeting" have the same definition as in RCW 42.30.020.

(4) Approval procedures. (a) The department shall strive to achieve final action to approve or deny an application within 180 days of the date of receipt of the application.

(b) The department must issue its decision in the form of a written statement, including findings of fact and conclusions, and noting the date of the issuance of its decision. The department's issued decision must conspicuously and plainly state that it is the department's final decision and that there will be no further modifications to the proposed greenhouse gas emissions reduction subelement.

(c) The department will promptly publish its decision on the application for approval as follows:

(i) Notify the city or county in writing of its determination;

(ii) Publish a notice of action in the Washington State Register;

(iii) Post a notice of its decision on the agency website; and

(iv) Notify other relevant state agencies regarding the approval decision.

(5) The department shall approve a proposed greenhouse gas emissions reduction subelement unless it determines that the proposed greenhouse gas

emissions reduction subelement is not consistent with the policy of RCW 36.70A.070 and, after they are adopted, the applicable guidelines.

(6) The department's final decision to approve or reject a proposed greenhouse gas emissions reduction subelement or amendment by a local government planning under RCW 36.70A.040 may be appealed according to the following provisions:

(a) The department's final decision to approve or reject a proposed greenhouse gas emissions reduction subelement or amendment by a local government planning under RCW 36.70A.040 may be appealed to the growth management hearings board by filing a petition as provided in RCW 36.70A.290.

(b) A decision of the growth management hearings board concerning an appeal of the department's final decision to approve or reject a proposed greenhouse gas emissions reduction subelement or amendment must be based solely on whether or not the adopted or amended greenhouse gas emissions reduction subelement, any adopted amendments to other elements of the comprehensive plan necessary to carry out the subelement, and any adopted or amended development regulations necessary to implement the subelement, comply with the goal set forth in RCW 36.70A.020(14) as it applies to greenhouse gas emissions reductions, RCW 36.70A.070(9) excluding RCW 36.70A.070(9)(e), the guidelines adopted under section 5 of this act applicable to the greenhouse gas emissions reduction subelement, or chapter 43.21C RCW.

Sec. 7. RCW 36.70A.280 and 2011 c 360 s 17 are each amended to read as follows:

(1) The growth management hearings board shall hear and determine only those petitions alleging either:

(a) That, except as provided otherwise by this subsection, a state agency, county, or city planning under this chapter is not in compliance with the requirements of this chapter, chapter 90.58 RCW as it relates to the adoption of shoreline master programs or amendments thereto, or chapter 43.21C RCW as it relates to plans, development regulations, or amendments, adopted under RCW 36.70A.040 or chapter 90.58 RCW. Nothing in this subsection authorizes the board to hear petitions alleging noncompliance with RCW 36.70A.5801;

(b) That the ((~~twenty~~)) 20-year growth management planning population projections adopted by the office of financial management pursuant to RCW 43.62.035 should be adjusted;

(c) That the approval of a work plan adopted under RCW 36.70A.735(1)(a) is not in compliance with the requirements of the program established under RCW 36.70A.710;

(d) That regulations adopted under RCW 36.70A.735(1)(b) are not regionally applicable and cannot be adopted, wholly or partially, by another jurisdiction; ((~~or~~))

(e) That a department certification under RCW 36.70A.735(1)(c) is erroneous; or

(f) That the department's final decision to approve or reject a proposed greenhouse gas emissions reduction subelement or amendments by a local government planning under RCW 36.70A.040 was not in compliance with the joint guidance issued by the department pursuant to section 5 of this act.

(2) A petition may be filed only by: (a) The state, or a county or city that plans under this chapter; (b) a person who has participated orally or in writing before the county or city regarding the matter on which a review is being requested; (c) a person who is certified by the governor within ((~~sixty~~)) 60 days of filing the request with the board; or (d) a person qualified pursuant to RCW 34.05.530.

(3) For purposes of this section "person" means any individual, partnership, corporation, association, state agency, governmental subdivision or unit thereof, or public or private organization or entity of any character.

(4) To establish participation standing under subsection (2)(b) of this section, a person must show that his or her participation before the county or city was reasonably related to the person's issue as presented to the board.

(5) When considering a possible adjustment to a growth management planning population projection prepared by the office of financial management, the board shall consider the implications of any such adjustment to the population forecast for the entire state.

The rationale for any adjustment that is adopted by the board must be documented and filed with the office of financial management within ten working days after adoption.

If adjusted by the board, a county growth management planning population projection shall only be used for the planning purposes set forth in this chapter and shall be known as the "board adjusted population projection." None of these changes shall affect the official state and county population forecasts prepared by the office of financial management, which shall continue to be used for state budget and planning purposes.

Sec. 8. RCW 36.70A.320 and 1997 c 429 s 20 are each amended to read as follows:

(1) Except as provided in subsections (5) and (6) of this section, comprehensive plans and development regulations, and amendments thereto, adopted under this chapter are presumed valid upon adoption.

(2) Except as otherwise provided in subsection (4) of this section, the burden is on the petitioner to demonstrate that any action taken by a state agency, county, or city under this chapter is not in compliance with the requirements of this chapter.

(3) In any petition under this chapter, the board, after full consideration of the petition, shall determine whether there is compliance with the requirements of this chapter. In making its determination, the board shall consider the criteria adopted by the department under RCW 36.70A.190(4). The board shall find compliance unless it determines that the action by the state agency, county, or city is clearly erroneous in view of the entire record before the board and in light of the goals and requirements of this chapter.

(4) A county or city subject to a determination of invalidity made under RCW 36.70A.300 or 36.70A.302 has the burden of demonstrating that the ordinance or resolution it has enacted in response to the determination of invalidity will no longer substantially interfere with the fulfillment of the goals of this chapter under the standard in RCW 36.70A.302(1).

(5) The shoreline element of a comprehensive plan and the applicable development regulations adopted by a county or city shall take effect as provided in chapter 90.58 RCW.

(6) The greenhouse gas emissions reduction subelement required by RCW 36.70A.070 shall take effect as provided in section 6 of this act.

Sec. 9. RCW 36.70A.190 and 2022 c 252 s 5 are each amended to read as follows:

(1) The department shall establish a program of technical and financial assistance and incentives to counties and cities to encourage and facilitate the adoption and implementation of comprehensive plans and development regulations throughout the state.

(2) The department shall develop a priority list and establish funding levels for planning and technical assistance grants both for counties and cities that plan under RCW 36.70A.040. Priority for assistance shall be based on a county's or city's population growth rates, commercial and industrial development rates, the existence and quality of a comprehensive plan and development regulations, the presence of overburdened communities, and other relevant factors. The department shall establish funding levels for grants to community-based organizations for the specific purpose of advancing participation of vulnerable populations and overburdened communities in the planning process.

(3) The department shall develop and administer a grant program to provide direct financial assistance to counties and cities for the preparation of comprehensive plans under this chapter. The department may establish provisions for county and city matching funds to conduct activities under this subsection. Grants may be expended for any purpose directly related to the preparation of a county or city comprehensive plan as the county or city and the department may agree, including, without limitation, the conducting of surveys, inventories and other data gathering and management activities, the retention of planning consultants, contracts with regional councils for planning and related services, and other related purposes.

(4) The department shall establish a program of technical assistance:

(a) Utilizing department staff, the staff of other state agencies, and the technical resources of counties and cities to help in the development of comprehensive plans required under this chapter. The technical assistance may include, but not be limited to, model land use ordinances, regional education and training programs, and information for local and regional inventories; and

(b) Adopting by rule procedural criteria to assist counties and cities in adopting comprehensive plans and development regulations that meet the goals and requirements of this chapter. These criteria shall reflect regional and local variations and the diversity that exists among different counties and cities that plan under this chapter.

(5) The department shall provide mediation services to resolve disputes between counties and cities regarding, among other things, coordination of regional issues and designation of urban growth areas.

(6) The department shall provide services to facilitate the timely resolution of disputes between a federally recognized Indian tribe and a city or county.

(a) A federally recognized Indian tribe may request the department to provide facilitation services to resolve issues of concern with a proposed comprehensive plan and its development regulations, or any amendment to the comprehensive plan and its development regulations.

(b) Upon receipt of a request from a tribe, the department shall notify the city or county of the request and offer to assist in providing facilitation services

to encourage resolution before adoption of the proposed comprehensive plan. Upon receipt of the notice from the department, the city or county must delay any final action to adopt any comprehensive plan or any amendment or its development regulations for at least 60 days. The tribe and the city or county may jointly agree to extend this period by notifying the department. A county or city must not be penalized for noncompliance under this chapter due to any delays associated with this process.

(c) Upon receipt of a request, the department shall provide comments to the county or city including a summary and supporting materials regarding the tribe's concerns. The county or city may either agree to amend the comprehensive plan as requested consistent with the comments from the department, or enter into a facilitated process with the tribe, which must be arranged by the department using a suitable expert to be paid by the department. This facilitated process may also extend the 60-day delay of adoption, upon agreement of the tribe and the city or county.

(d) At the end of the 60-day period, unless by agreement there is an extension of the 60-day period, the city or county may proceed with adoption of the proposed comprehensive plan and development regulations. The facilitator shall write a report of findings describing the basis for agreements or disagreements that occurred during the process that are allowed to be disclosed by the parties and the resulting agreed-upon elements of the plan to be amended.

(7) The department shall provide planning grants to enhance citizen participation under RCW 36.70A.140.

(8) The department shall develop, in collaboration with the department of ecology, the department of fish and wildlife, the department of natural resources, the department of health, the emergency management division of the military department, as well as any federally recognized tribe who chooses to voluntarily participate, and adopt by rule guidance that creates a model climate change and resiliency element that may be used by counties, cities, and multiple-county planning regions for developing and implementing climate change and resiliency plans and policies required by RCW 36.70A.070(9), subject to the following provisions:

(a) The model element must establish minimum requirements, and may include model options or voluntary cross-jurisdictional strategies, or both, for fulfilling the requirements of RCW 36.70A.070(9);

(b) The model element should provide guidance on identifying, designing, and investing in infrastructure that supports community resilience to climate impacts, including the protection, restoration, and enhancement of natural infrastructure as well as traditional infrastructure and protecting and enhancing natural areas to foster resiliency to climate impacts, as well as areas of vital habitat for safe passage and species migration;

(c) The model element should provide guidance on identifying and addressing natural hazards created or aggravated by climate change, including sea level rise, landslides, flooding, drought, heat, smoke, wildfires, and other effects of reasonably anticipated changes to temperature and precipitation patterns; and

(d) The rule must recognize and promote as many cobenefits of climate resilience as possible such as climate change mitigation, salmon recovery, forest health, ecosystem services, and socioeconomic health and resilience.

NEW SECTION. **Sec. 10.** A new section is added to chapter 47.80 RCW to read as follows:

The department shall compile, maintain, and publish a summary of the per capita vehicle miles traveled annually in each city in the state, and in the unincorporated portions of each county in the state.

NEW SECTION. **Sec. 11.** A new section is added to chapter 90.58 RCW to read as follows:

The department shall update its shoreline master program guidelines to require shoreline master programs to address the impact of sea level rise and increased storm severity on people, property, and shoreline natural resources and the environment.

Sec. 12. RCW 86.12.200 and 1991 c 322 s 3 are each amended to read as follows:

The county legislative authority of any county may adopt a comprehensive flood control management plan for any drainage basin that is located wholly or partially within the county.

A comprehensive flood control management plan shall include the following elements:

(1) Designation of areas that are susceptible to periodic flooding, from inundation by bodies of water or surface water runoff, or both, including the river's meander belt or floodway;

(2) Establishment of a comprehensive scheme of flood control protection and improvements for the areas that are subject to such periodic flooding, that includes: (a) Determining the need for, and desirable location of, flood control improvements to protect or preclude flood damage to structures, works, and improvements, based upon a cost/benefit ratio between the expense of providing and maintaining these improvements and the benefits arising from these improvements; (b) establishing the level of flood protection that each portion of the system of flood control improvements will be permitted; (c) identifying alternatives to in-stream flood control work; (d) identifying areas where flood waters could be directed during a flood to avoid damage to buildings and other structures; and (e) identifying sources of revenue that will be sufficient to finance the comprehensive scheme of flood control protection and improvements;

(3) Establishing land use regulations that preclude the location of structures, works, or improvements in critical portions of such areas subject to periodic flooding, including a river's meander belt or floodway, and permitting only flood-compatible land uses in such areas;

(4) Establishing restrictions on construction activities in areas subject to periodic floods that require the flood proofing of those structures that are permitted to be constructed or remodeled; ((~~and~~))

(5) Establishing restrictions on land clearing activities and development practices that exacerbate flood problems by increasing the flow or accumulation of flood waters, or the intensity of drainage, on low-lying areas. Land clearing activities do not include forest practices as defined in chapter 76.09 RCW; and

(6) Consideration of climate change impacts, including the impact of sea level rise and increased storm severity on people, property, natural resources, and the environment.

A comprehensive flood control management plan shall be subject to the minimum requirements for participation in the national flood insurance program, requirements exceeding the minimum national flood insurance program that have been adopted by the department of ecology for a specific floodplain pursuant to RCW 86.16.031, and rules adopted by the department of ecology pursuant to RCW 86.26.050 relating to floodplain management activities. When a county plans under chapter 36.70A RCW, it may incorporate the portion of its comprehensive flood control management plan relating to land use restrictions in its comprehensive plan and development regulations adopted pursuant to chapter 36.70A RCW.

NEW SECTION. **Sec. 13.** A new section is added to chapter 43.21C RCW to read as follows:

The adoption of ordinances, amendments to comprehensive plans, amendments to development regulations, and other nonproject actions taken by a county or city pursuant to RCW 36.70A.070(9) (d) or (e) in order to implement measures specified by the department of commerce pursuant to section 5 of this act are not subject to administrative or judicial appeals under this chapter.

Sec. 14. RCW 36.70A.030 and 2021 c 254 s 6 are each amended to read as follows:

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

(1) "Adopt a comprehensive land use plan" means to enact a new comprehensive land use plan or to update an existing comprehensive land use plan.

(2) "Affordable housing" means, unless the context clearly indicates otherwise, residential housing whose monthly costs, including utilities other than telephone, do not exceed thirty percent of the monthly income of a household whose income is:

(a) For rental housing, ((~~sixty~~)) 60 percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development; or

(b) For owner-occupied housing, ((~~eighty~~)) 80 percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(3) "Agricultural land" means land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, finfish in upland hatcheries, or livestock, and that has long-term commercial significance for agricultural production.

(4) "City" means any city or town, including a code city.

(5) "Comprehensive land use plan," "comprehensive plan," or "plan" means a generalized coordinated land use policy statement of the governing body of a county or city that is adopted pursuant to this chapter.

(6) "Critical areas" include the following areas and ecosystems: (a) Wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded

areas; and (e) geologically hazardous areas. "Fish and wildlife habitat conservation areas" does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.

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

(8) "Development regulations" or "regulation" means the controls placed on development or land use activities by a county or city, including, but not limited to, zoning ordinances, critical areas ordinances, shoreline master programs, official controls, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto. A development regulation does not include a decision to approve a project permit application, as defined in RCW 36.70B.020, even though the decision may be expressed in a resolution or ordinance of the legislative body of the county or city.

(9) "Emergency housing" means temporary indoor accommodations for individuals or families who are homeless or at imminent risk of becoming homeless that is intended to address the basic health, food, clothing, and personal hygiene needs of individuals or families. Emergency housing may or may not require occupants to enter into a lease or an occupancy agreement.

(10) "Emergency shelter" means a facility that provides a temporary shelter for individuals or families who are currently homeless. Emergency shelter may not require occupants to enter into a lease or an occupancy agreement. Emergency shelter facilities may include day and warming centers that do not provide overnight accommodations.

(11) "Extremely low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below thirty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(12) "Forestland" means land primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, including Christmas trees subject to the excise tax imposed under RCW 84.33.100 through 84.33.140, and that has long-term commercial significance. In determining whether forestland is primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, the following factors shall be considered: (a) The proximity of the land to urban, suburban, and rural settlements; (b) surrounding parcel size and the compatibility and intensity of adjacent and nearby land uses; (c) long-term local economic conditions that affect the ability to manage for timber production; and (d) the availability of public facilities and services conducive to conversion of forestland to other uses.

(13) "Freight rail dependent uses" means buildings and other infrastructure that are used in the fabrication, processing, storage, and transport of goods where the use is dependent on and makes use of an adjacent short line railroad. Such facilities are both urban and rural development for purposes of this chapter. "Freight rail dependent uses" does not include buildings and other infrastructure

that are used in the fabrication, processing, storage, and transport of coal, liquefied natural gas, or "crude oil" as defined in RCW 90.56.010.

(14) "Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

(15) "Long-term commercial significance" includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land.

(16) "Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below eighty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(17) "Minerals" include gravel, sand, and valuable metallic substances.

(18) "Moderate-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below 120 percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(19) "Permanent supportive housing" is subsidized, leased housing with no limit on length of stay that prioritizes people who need comprehensive support services to retain tenancy and utilizes admissions practices designed to use lower barriers to entry than would be typical for other subsidized or unsubsidized rental housing, especially related to rental history, criminal history, and personal behaviors. Permanent supportive housing is paired with on-site or off-site voluntary services designed to support a person living with a complex and disabling behavioral health or physical health condition who was experiencing homelessness or was at imminent risk of homelessness prior to moving into housing to retain their housing and be a successful tenant in a housing arrangement, improve the resident's health status, and connect the resident of the housing with community-based health care, treatment, or employment services. Permanent supportive housing is subject to all of the rights and responsibilities defined in chapter 59.18 RCW.

(20) "Public facilities" include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.

(21) "Public services" include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

(22) "Recreational land" means land so designated under RCW 36.70A.1701 and that, immediately prior to this designation, was designated as agricultural land of long-term commercial significance under RCW 36.70A.170. Recreational land must have playing fields and supporting facilities existing before July 1, 2004, for sports played on grass playing fields.

(23) "Rural character" refers to the patterns of land use and development established by a county in the rural element of its comprehensive plan:

(a) In which open space, the natural landscape, and vegetation predominate over the built environment;

(b) That foster traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural areas;

(c) That provide visual landscapes that are traditionally found in rural areas and communities;

(d) That are compatible with the use of the land by wildlife and for fish and wildlife habitat;

(e) That reduce the inappropriate conversion of undeveloped land into sprawling, low-density development;

(f) That generally do not require the extension of urban governmental services; and

(g) That are consistent with the protection of natural surface water flows and groundwater and surface water recharge and discharge areas.

(24) "Rural development" refers to development outside the urban growth area and outside agricultural, forest, and mineral resource lands designated pursuant to RCW 36.70A.170. Rural development can consist of a variety of uses and residential densities, including clustered residential development, at levels that are consistent with the preservation of rural character and the requirements of the rural element. Rural development does not refer to agriculture or forestry activities that may be conducted in rural areas.

(25) "Rural governmental services" or "rural services" include those public services and public facilities historically and typically delivered at an intensity usually found in rural areas, and may include domestic water systems, fire and police protection services, transportation and public transit services, and other public utilities associated with rural development and normally not associated with urban areas. Rural services do not include storm or sanitary sewers, except as otherwise authorized by RCW 36.70A.110(4).

(26) "Short line railroad" means those railroad lines designated class II or class III by the United States surface transportation board.

(27) "Urban governmental services" or "urban services" include those public services and public facilities at an intensity historically and typically provided in cities, specifically including storm and sanitary sewer systems, domestic water systems, street cleaning services, fire and police protection services, public transit services, and other public utilities associated with urban areas and normally not associated with rural areas.

(28) "Urban growth" refers to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources, rural uses, rural development, and natural resource lands designated pursuant to RCW 36.70A.170. A pattern of more intensive rural development, as provided in RCW 36.70A.070(5)(d), is not urban growth. When allowed to spread over wide areas, urban growth typically requires urban governmental services. "Characterized by urban growth" refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.

(29) "Urban growth areas" means those areas designated by a county pursuant to RCW 36.70A.110.

(30) "Very low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below fifty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(31) "Wetland" or "wetlands" means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands.

(32) "Per capita vehicle miles traveled" means the number of miles traveled using cars and light trucks in a calendar year divided by the number of residents in Washington. The calculation of this value excludes vehicle miles driven conveying freight.

(33) "Active transportation" means forms of pedestrian mobility including walking or running, the use of a mobility assistive device such as a wheelchair, bicycling and cycling irrespective of the number of wheels, and the use of small personal devices such as foot scooters or skateboards. Active transportation includes both traditional and electric assist bicycles and other devices. Planning for active transportation must consider and address accommodation pursuant to the Americans with disabilities act and the distinct needs of each form of active transportation.

(34) "Transportation system" means all infrastructure and services for all forms of transportation within a geographical area, irrespective of the responsible jurisdiction or transportation provider.

(35) "Environmental justice" means the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to development, implementation, and enforcement of environmental laws, regulations, and policies. Environmental justice includes addressing disproportionate environmental and health impacts in all laws, rules, and policies with environmental impacts by prioritizing vulnerable populations and overburdened communities and the equitable distribution of resources and benefits.

(36) "Active transportation facilities" means facilities provided for the safety and mobility of active transportation users including, but not limited to, trails, as defined in RCW 47.30.005, sidewalks, bike lanes, shared-use paths, and other facilities in the public right-of-way.

(37) "Green space" means an area of land, vegetated by natural features such as grass, trees, or shrubs, within an urban context and less than one acre in size that creates public value through one or more of the following attributes:

(a) Is accessible to the public;

(b) Promotes physical and mental health of residents;

(c) Provides relief from the urban heat island effects;

(d) Promotes recreational and aesthetic values;

(e) Protects streams or water supply; or

(f) Preserves visual quality along highway, road, or street corridors.

(38) "Green infrastructure" means a wide array of natural assets and built structures within an urban growth area boundary, including parks and other areas with protected tree canopy, and management practices at multiple scales that manage wet weather and that maintain and restore natural hydrology by storing, infiltrating, evapotranspiring, and harvesting and using stormwater.

(39) "Wildland urban interface" means the geographical area where structures and other human development meets or intermingles with wildland vegetative fuels.

(40) "Overburdened community" means a geographic area where vulnerable populations face combined, multiple environmental harms and health impacts, and includes, but is not limited to, highly impacted communities as defined in RCW 19.405.020.

(41)(a) "Vulnerable populations" means population groups that are more likely to be at higher risk for poor health outcomes in response to environmental harms, due to: (i) Adverse socioeconomic factors, such as unemployment, high housing and transportation costs relative to income, limited access to nutritious food and adequate health care, linguistic isolation, and other factors that negatively affect health outcomes and increase vulnerability to the effects of environmental harms; and (ii) sensitivity factors, such as low birth weight and higher rates of hospitalization.

(b) "Vulnerable populations" includes, but is not limited to:

(i) Racial or ethnic minorities;

(ii) Low-income populations; and

(iii) Populations disproportionately impacted by environmental harms.

Sec. 15. RCW 36.70A.130 and 2022 c 287 s 1 and 2022 c 192 s 1 are each reenacted and amended to read as follows:

(1)(a) Each comprehensive land use plan and development regulations shall be subject to continuing review and evaluation by the county or city that adopted them. Except as otherwise provided, a county or city shall take legislative action to review and, if needed, revise its comprehensive land use plan and development regulations to ensure the plan and regulations comply with the requirements of this chapter according to the deadlines in subsections (4) and (5) of this section.

(b) Except as otherwise provided, a county or city not planning under RCW 36.70A.040 shall take action to review and, if needed, revise its policies and development regulations regarding critical areas and natural resource lands adopted according to this chapter to ensure these policies and regulations comply with the requirements of this chapter according to the deadlines in subsections (4) and (5) of this section. Legislative action means the adoption of a resolution or ordinance following notice and a public hearing indicating at a minimum, a finding that a review and evaluation has occurred and identifying the revisions made, or that a revision was not needed and the reasons therefor.

(c) The review and evaluation required by this subsection shall include, but is not limited to, consideration of critical area ordinances and, if planning under RCW 36.70A.040, an analysis of the population allocated to a city or county

from the most recent ((~~ten~~)) 10-year population forecast by the office of financial management.

(d) Any amendment of or revision to a comprehensive land use plan shall conform to this chapter. Any amendment of or revision to development regulations shall be consistent with and implement the comprehensive plan.

(2)(a) Each county and city shall establish and broadly disseminate to the public a public participation program consistent with RCW 36.70A.035 and 36.70A.140 that identifies procedures and schedules whereby updates, proposed amendments, or revisions of the comprehensive plan are considered by the governing body of the county or city no more frequently than once every year. "Updates" means to review and revise, if needed, according to subsection (1) of this section, and the deadlines in subsections (4) and (5) of this section or in accordance with the provisions of subsection (6) of this section. Amendments may be considered more frequently than once per year under the following circumstances:

(i) The initial adoption of a subarea plan. Subarea plans adopted under this subsection (2)(a)(i) must clarify, supplement, or implement jurisdiction-wide comprehensive plan policies, and may only be adopted if the cumulative impacts of the proposed plan are addressed by appropriate environmental review under chapter 43.21C RCW;

(ii) The development of an initial subarea plan for economic development located outside of the one hundred year floodplain in a county that has completed a state-funded pilot project that is based on watershed characterization and local habitat assessment;

(iii) The adoption or amendment of a shoreline master program under the procedures set forth in chapter 90.58 RCW;

(iv) The amendment of the capital facilities element of a comprehensive plan that occurs concurrently with the adoption or amendment of a county or city budget; or

(v) The adoption of comprehensive plan amendments necessary to enact a planned action under RCW 43.21C.440, provided that amendments are considered in accordance with the public participation program established by the county or city under this subsection (2)(a) and all persons who have requested notice of a comprehensive plan update are given notice of the amendments and an opportunity to comment.

(b) Except as otherwise provided in (a) of this subsection, all proposals shall be considered by the governing body concurrently so the cumulative effect of the various proposals can be ascertained. However, after appropriate public participation a county or city may adopt amendments or revisions to its comprehensive plan that conform with this chapter whenever an emergency exists or to resolve an appeal of a comprehensive plan filed with the growth management hearings board or with the court.

(3)(a) Each county that designates urban growth areas under RCW 36.70A.110 shall review, according to the schedules established in subsections (4) and (5) of this section, its designated urban growth area or areas, patterns of development occurring within the urban growth area or areas, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area. In conjunction with this review by the county, each city located within an urban growth area shall review the densities permitted within

its boundaries, and the extent to which the urban growth occurring within the county has located within each city and the unincorporated portions of the urban growth areas.

(b) The county comprehensive plan designating urban growth areas, and the densities permitted in the urban growth areas by the comprehensive plans of the county and each city located within the urban growth areas, shall be revised to accommodate the urban growth projected to occur in the county for the succeeding ((~~twenty~~)) 20-year period. The review required by this subsection may be combined with the review and evaluation required by RCW 36.70A.215.

(c) If, during the county's review under (a) of this subsection, the county determines revision of the urban growth area is not required to accommodate the urban growth projected to occur in the county for the succeeding 20-year period, but does determine that patterns of development have created pressure in areas that exceed available, developable lands within the urban growth area, the urban growth area or areas may be revised to accommodate identified patterns of development and likely future development pressure for the succeeding 20-year period if the following requirements are met:

(i) The revised urban growth area may not result in an increase in the total surface areas of the urban growth area or areas;

(ii) The areas added to the urban growth area are not or have not been designated as agricultural, forest, or mineral resource lands of long-term commercial significance;

(iii) Less than 15 percent of the areas added to the urban growth area are critical areas;

(iv) The areas added to the urban growth areas are suitable for urban growth;

(v) The transportation element and capital facility plan element have identified the transportation facilities, and public facilities and services needed to serve the urban growth area and the funding to provide the transportation facilities and public facilities and services;

(vi) The urban growth area is not larger than needed to accommodate the growth planned for the succeeding 20-year planning period and a reasonable land market supply factor;

(vii) The areas removed from the urban growth area do not include urban growth or urban densities; and

(viii) The revised urban growth area is contiguous, does not include holes or gaps, and will not increase pressures to urbanize rural or natural resource lands.

(4) Except as otherwise provided in subsections (6) and (8) of this section, counties and cities shall take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter as follows:

(a) On or before June 30, 2015, for King, Pierce, and Snohomish counties and the cities within those counties;

(b) On or before June 30, 2016, for Clallam, Clark, Island, Jefferson, Kitsap, Mason, San Juan, Skagit, Thurston, and Whatcom counties and the cities within those counties;

(c) On or before June 30, 2017, for Benton, Chelan, Cowlitz, Douglas, Kittitas, Lewis, Skamania, Spokane, and Yakima counties and the cities within those counties; and

(d) On or before June 30, 2018, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

(5) Except as otherwise provided in subsections (6) and (8) of this section, following the review of comprehensive plans and development regulations required by subsection (4) of this section, counties and cities shall take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter as follows:

(a) ((~~On~~)) Except as provided in subsection (10) of this section, on or before December 31, 2024, with the following review and, if needed, revision on or before June 30, 2034, and then every ((~~ten~~)) 10 years thereafter, for King, Kitsap, Pierce, and Snohomish counties and the cities within those counties;

(b) On or before June 30, 2025, and every ((~~ten~~)) 10 years thereafter, for Clallam, Clark, Island, Jefferson, Lewis, Mason, San Juan, Skagit, Thurston, and Whatcom counties and the cities within those counties;

(c) On or before June 30, 2026, and every ((~~ten~~)) 10 years thereafter, for Benton, Chelan, Cowlitz, Douglas, Franklin, Kittitas, Skamania, Spokane, Walla Walla, and Yakima counties and the cities within those counties; and

(d) On or before June 30, 2027, and every ((~~ten~~)) 10 years thereafter, for Adams, Asotin, Columbia, Ferry, Garfield, Grant, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, and Whitman counties and the cities within those counties.

(6)(a) Nothing in this section precludes a county or city from conducting the review and evaluation required by this section before the deadlines established in subsections (4) and (5) of this section. Counties and cities may begin this process early and may be eligible for grants from the department, subject to available funding, if they elect to do so.

(b) A county that is subject to a deadline established in subsection (5)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the twenty-four months following the deadline established in subsection (5) of this section: The county has a population of less than fifty thousand and has had its population increase by no more than seventeen percent in the ten years preceding the deadline established in subsection (5) of this section as of that date.

(c) A city that is subject to a deadline established in subsection (5)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the twenty-four months following the deadline established in subsection (5) of this section: The city has a population of no more than five thousand and has had its population increase by the greater of either no more than one hundred persons or no more than seventeen percent in the ten years preceding the deadline established in subsection (5) of this section as of that date.

(d) State agencies are encouraged to provide technical assistance to the counties and cities in the review of critical area ordinances, comprehensive plans, and development regulations.

(7)(a) The requirements imposed on counties and cities under this section shall be considered "requirements of this chapter" under the terms of RCW

36.70A.040(1). Only those counties and cities that meet the following criteria may receive grants, loans, pledges, or financial guarantees under chapter 43.155 or 70A.135 RCW:

(i) Complying with the deadlines in this section; or

(ii) Demonstrating substantial progress towards compliance with the schedules in this section for development regulations that protect critical areas.

(b) A county or city that is fewer than ((~~twelve~~)) 12 months out of compliance with the schedules in this section for development regulations that protect critical areas is making substantial progress towards compliance. Only those counties and cities in compliance with the schedules in this section may receive preference for grants or loans subject to the provisions of RCW 43.17.250.

(8)(a) Except as otherwise provided in (c) of this subsection, if a participating watershed is achieving benchmarks and goals for the protection of critical areas functions and values, the county is not required to update development regulations to protect critical areas as they specifically apply to agricultural activities in that watershed.

(b) A county that has made the election under RCW 36.70A.710(1) may only adopt or amend development regulations to protect critical areas as they specifically apply to agricultural activities in a participating watershed if:

(i) A work plan has been approved for that watershed in accordance with RCW 36.70A.725;

(ii) The local watershed group for that watershed has requested the county to adopt or amend development regulations as part of a work plan developed under RCW 36.70A.720;

(iii) The adoption or amendment of the development regulations is necessary to enable the county to respond to an order of the growth management hearings board or court;

(iv) The adoption or amendment of development regulations is necessary to address a threat to human health or safety; or

(v) Three or more years have elapsed since the receipt of funding.

(c) Beginning ((~~ten~~)) 10 years from the date of receipt of funding, a county that has made the election under RCW 36.70A.710(1) must review and, if necessary, revise development regulations to protect critical areas as they specifically apply to agricultural activities in a participating watershed in accordance with the review and revision requirements and timeline in subsection (5) of this section. This subsection (8)(c) does not apply to a participating watershed that has determined under RCW 36.70A.720(2)(c)(ii) that the watershed's goals and benchmarks for protection have been met.

(9)(a) Counties subject to planning deadlines established in subsection (5) of this section that are required or that choose to plan under RCW 36.70A.040 and that meet either criteria of (a)(i) or (ii) of this subsection, and cities with a population of more than 6,000 as of April 1, 2021, within those counties, must provide to the department an implementation progress report detailing the progress they have achieved in implementing their comprehensive plan five years after the review and revision of their comprehensive plan. Once a county meets the criteria in (a)(i) or (ii) of this subsection, the implementation progress report requirements remain in effect thereafter for that county and the cities therein with populations greater than 6,000 as of April 1, 2021, even if the

county later no longer meets either or both criteria. A county is subject to the implementation progress report requirement if it meets either of the following criteria on or after April 1, 2021:

(i) The county has a population density of at least 100 people per square mile and a population of at least 200,000; or

(ii) The county has a population density of at least 75 people per square mile and an annual growth rate of at least 1.75 percent as determined by the office of financial management.

(b) The department shall adopt guidelines for indicators, measures, milestones, and criteria for use by counties and cities in the implementation progress report that must cover:

(i) The implementation of previously adopted changes to the housing element and any effect those changes have had on housing affordability and availability within the jurisdiction;

(ii) Permit processing timelines; and

(iii) Progress toward implementing any actions required to achieve reductions to meet greenhouse gas and vehicle miles traveled requirements as provided for in any element of the comprehensive plan under RCW 36.70A.070.

(c) If a city or county required to provide an implementation progress report under this subsection (9) has not implemented any specifically identified regulations, zoning and land use changes, or taken other legislative or administrative action necessary to implement any changes in the most recent periodic update in their comprehensive plan by the due date for the implementation progress report, the city or county must identify the need for such action in the implementation progress report. Cities and counties must adopt a work plan to implement any necessary regulations, zoning and land use changes, or take other legislative or administrative action identified in the implementation progress report and complete all work necessary for implementation within two years of submission of the implementation progress report.

(10) Any county or city that is required by section 4 of this act to include in its comprehensive plan a climate change and resiliency element and that is also required by subsection (5)(a) of this section to review and, if necessary, revise its comprehensive plan on or before December 31, 2024, must update its transportation element and incorporate a climate change and resiliency element into its comprehensive plan as part of the first implementation progress report required by subsection (9) of this section if funds are appropriated and distributed by December 31, 2027, as required under RCW 36.70A.070(10).

NEW SECTION. **Sec. 16.** A new section is added to chapter 36.70A RCW to read as follows:

(1) Notwithstanding the requirements of RCW 36.70A.070(10), it is the intent that jurisdictions subject to RCW 36.70A.130(5)(b) implement the requirements of this act on or before June 30, 2025. Any funding provided to cover applicable local government costs related to implementation of this act shall be considered timely.

(2) This section expires July 31, 2025.

NEW SECTION. **Sec. 17.** A new section is added to chapter 43.20 RCW to read as follows:

(1)(a) Beginning with water system plans initiated after June 30, 2025, the department shall ensure water system plans for group A community public water systems serving 1,000 or more connections include a climate resilience element at the time of approval.

(b) The department must update its water system planning guidebook to assist water systems in implementing the climate resilience element, including guidance on any available technical and financial resources.

(c) The department shall provide technical assistance to public water systems based on their system size, location, and water source, by providing references to existing state or federal risk management, climate resiliency, or emergency management and response tools that may be used to satisfy the climate resilience element.

(d) Subject to the availability of amounts appropriated for this specific purpose, the University of Washington climate impacts group shall assist the department in the development of tools for the technical assistance to be provided in (c) of this subsection.

(2) To fulfill the requirements of the climate resilience element, water systems must:

(a) Determine which extreme weather events pose significant challenges to their system and build scenarios to identify potential impacts;

(b) Assess critical assets and the actions necessary to protect the system from the consequences of extreme weather events on system operations; and

(c) Generate reports describing the costs and benefits of the system's risk reduction strategies and capital project needs.

(3) Climate readiness projects, including planning to meet the requirements of this section and actions to protect a water system from extreme weather events, including infrastructure and design projects, are eligible for financial assistance under RCW 70A.125.180. The department must develop grant and loan eligibility criteria and consider applications from water systems that identify climate readiness projects.

Sec. 18. RCW 70A.125.180 and 2020 c 20 s 1359 are each amended to read as follows:

Subject to the availability of amounts appropriated for this specific purpose, the department shall provide financial assistance through a water system acquisition and rehabilitation program, hereby created. ((~~The program shall be jointly administered with the public works board and the department of commerce.~~)) The ((~~agencies~~)) department shall adopt guidelines for the program using as a model the procedures and criteria of the drinking water revolving loan program authorized under RCW 70A.125.160. All financing provided through the program must be in the form of grants or loans that partially cover project costs, including projects and planning required under section 17 of this act. The maximum grant or loan to any eligible entity may not exceed ((~~twenty-five~~)) 25 percent of the funds allocated to the appropriation in any fiscal year.

NEW SECTION. **Sec. 19.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void.

Passed by the House April 13, 2023.
Passed by the Senate April 7, 2023.

Approved by the Governor May 3, 2023.
Filed in Office of Secretary of State May 4, 2023.

CHAPTER 229

[Substitute Senate Bill 5165]

ELECTRIC POWER SYSTEM TRANSMISSION PLANNING—VARIOUS PROVISIONS

AN ACT Relating to electric power system transmission planning; amending RCW 19.280.030, 80.50.060, and 80.50.045; adding a new section to chapter 19.280 RCW; adding new sections to chapter 43.21C RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** (1) The legislature finds that the electric power system serving Washington will require additional high voltage transmission capacity to achieve the state's objectives and legal requirements. Washington must reduce its greenhouse gas emissions under state law, and the 2021 state energy strategy finds that this will require a significant increase in the use of renewable or nonemitting electricity in place of fossil fuels now used in the transportation, industry, and building sectors.

(2) The legislature anticipated the crucial role of additional transmission capacity in 2019 in the enactment of the clean energy transformation act and directed the energy facilities site evaluation council to convene a transmission corridors work group. The transmission corridors work group issued its final report on October 31, 2022, in which it confirmed the central role of transmission and recommended actions to achieve the expansion of transmission capacity to address this need.

(3) Expanded transmission capacity and the more effective use of existing transmission capacity will provide benefits to electricity consumers in the state by enhancing the reliability of the electric power system and increasing access to more affordable sources of electricity within the state and across the western United States and Canada.

(4) Existing constraints on transmission capacity within the state already present challenges in ensuring adequate and affordable supplies of clean electricity. Of particular concern is the capability of the transmission system to deliver clean electricity into and within the central Puget Sound area.

(5) There are multiple issues that contribute to the challenge of making timely and cost-effective expansions of the high voltage transmission system. Among those challenges is the need for a more proactive transmission planning process using a longer planning period than current law requires. Transmission planning must reflect not just the requirements to connect individual generating resources to the grid but also the need to transfer electricity across the state and the west. Transmission planning must incorporate state policies and laws in planning objectives.

(6) Certain transmission projects are of significant state interest due to their impact on the access of multiple utilities and communities to gain access to clean, affordable electricity supplies and obtain electricity that is necessary to comply with state laws.

(7) The legislature intends and affirms that the option to use local government permitting processes remains available for transmission projects not subject to mandatory jurisdiction under RCW 80.50.060(2).

(8) Transmission projects typically take at least a decade to develop and permit. This timing presents particular challenges for achieving the state's greenhouse gas emissions reduction mandates, which include ambitious benchmarks as early as 2030. There is a need to accelerate the timeline for transmission development while still protecting other Washington values.

(9) Some electric utilities rely entirely or primarily on a contracted network transmission provider for required transmission services. These electric utilities may contribute to the objectives of this act by requesting that each provider of network transmission service to the utilities include the provisions of chapter 288, Laws of 2019 and chapter 70A.45 RCW as public policy mandates in the transmission service provider's transmission planning process.

Sec. 2. RCW 19.280.030 and 2021 c 300 s 3 are each amended to read as follows:

Each electric utility must develop a plan consistent with this section.

(1) Utilities with more than ((~~twenty-five thousand~~)) 25,000 customers that are not full requirements customers must develop or update an integrated resource plan by September 1, 2008. At a minimum, progress reports reflecting changing conditions and the progress of the integrated resource plan must be produced every two years thereafter. An updated integrated resource plan must be developed at least every four years subsequent to the 2008 integrated resource plan. The integrated resource plan, at a minimum, must include:

(a) A range of forecasts, for at least the next ((~~ten~~)) 10 years or longer, of projected customer demand which takes into account econometric data and customer usage;

(b) An assessment of commercially available conservation and efficiency resources, as informed, as applicable, by the assessment for conservation potential under RCW 19.285.040 for the planning horizon consistent with (a) of this subsection. Such assessment may include, as appropriate, opportunities for development of combined heat and power as an energy and capacity resource, demand response and load management programs, and currently employed and new policies and programs needed to obtain the conservation and efficiency resources;

(c) An assessment of commercially available, utility scale renewable and nonrenewable generating technologies including a comparison of the benefits and risks of purchasing power or building new resources;

(d) A comparative evaluation of renewable and nonrenewable generating resources, including transmission and distribution delivery costs, and conservation and efficiency resources using "lowest reasonable cost" as a criterion;

(e) An assessment of methods, commercially available technologies, or facilities for integrating renewable resources, including but not limited to battery storage and pumped storage, and addressing overgeneration events, if applicable to the utility's resource portfolio;

(f) An assessment and ((~~ten~~)) 20-year forecast of the availability of and requirements for regional generation and transmission capacity ((~~on which the utility may rely~~)) to provide and deliver electricity to ((~~its customers~~))the utility's customers and to meet the requirements of chapter 288, Laws of 2019 and the state's greenhouse gas emissions reduction limits in RCW 70A.45.020. The transmission assessment must identify the utility's expected needs to acquire

new long-term firm rights, develop new, or expand or upgrade existing, bulk transmission facilities consistent with the requirements of this section and reliability standards;

(i) If an electric utility operates transmission assets rated at 115,000 volts or greater, the transmission assessment must take into account opportunities to make more effective use of existing transmission capacity through improved transmission system operating practices, energy efficiency, demand response, grid modernization, nonwires solutions, and other programs if applicable;

(ii) An electric utility that relies entirely or primarily on a contract for transmission service to provide necessary transmission services may comply with the transmission requirements of this subsection by requesting that the counterparty to the transmission service contract include the provisions of chapter 288, Laws of 2019 and chapter 70A.45 RCW as public policy mandates in the transmission service provider's process for assessing transmission need, and planning and acquiring necessary transmission capacity;

(iii) An electric utility may comply with the requirements of this subsection (1)(f) by relying on and incorporating the results of a separate transmission assessment process, conducted individually or jointly with other utilities and transmission system users, if that assessment process meets the requirements of this subsection;

(g) A determination of resource adequacy metrics for the resource plan consistent with the forecasts;

(h) A forecast of distributed energy resources that may be installed by the utility's customers and an assessment of their effect on the utility's load and operations;

(i) An identification of an appropriate resource adequacy requirement and measurement metric consistent with prudent utility practice in implementing RCW 19.405.030 through 19.405.050;

(j) The integration of the demand forecasts, resource evaluations, and resource adequacy requirement into a long-range assessment describing the mix of supply side generating resources and conservation and efficiency resources that will meet current and projected needs, including mitigating overgeneration events and implementing RCW 19.405.030 through 19.405.050, at the lowest reasonable cost and risk to the utility and its customers, while maintaining and protecting the safety, reliable operation, and balancing of its electric system;

(k) An assessment, informed by the cumulative impact analysis conducted under RCW 19.405.140, of: Energy and nonenergy benefits and the avoidance and reductions of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health and environmental benefits, costs, and risks; and energy security and risk;

(l) A ((~~ten~~)) 10-year clean energy action plan for implementing RCW 19.405.030 through 19.405.050 at the lowest reasonable cost, and at an acceptable resource adequacy standard, that identifies the specific actions to be taken by the utility consistent with the long-range integrated resource plan; and

(m) An analysis of how the plan accounts for:

(i) Modeled load forecast scenarios that consider the anticipated levels of zero emissions vehicle use in a utility's service area, including anticipated levels of zero emissions vehicle use in the utility's service area provided in RCW 47.01.520, if feasible;

(ii) Analysis, research, findings, recommendations, actions, and any other relevant information found in the electrification of transportation plans submitted under RCW 35.92.450, 54.16.430, and 80.28.365; and

(iii) Assumed use case forecasts and the associated energy impacts. Electric utilities may, but are not required to, use the forecasts generated by the mapping and forecasting tool created in RCW 47.01.520. This subsection (1)(m)(iii) applies only to plans due to be filed after September 1, 2023.

(2) ((~~For an investor-owned utility, the~~)) The clean energy action plan must:

(a) Identify and be informed by the utility's ((~~ten~~)) 10-year cost-effective conservation potential assessment as determined under RCW 19.285.040, if applicable;

(b) ((~~establish~~)) Establish a resource adequacy requirement;

(c) ((~~identify~~)) Identify the potential cost-effective demand response and load management programs that may be acquired;

(d) ((~~identify~~)) Identify renewable resources, nonemitting electric generation, and distributed energy resources that may be acquired and evaluate how each identified resource may be expected to contribute to meeting the utility's resource adequacy requirement;

(e) ((~~identify~~)) Identify any need to develop new, or expand or upgrade existing, bulk transmission and distribution facilities and document existing and planned efforts by the utility to make more effective use of existing transmission capacity and secure additional transmission capacity consistent with the requirements of subsection (1)(f) of this section; and

(f) ((~~identify~~)) Identify the nature and possible extent to which the utility may need to rely on alternative compliance options under RCW 19.405.040(1)(b), if appropriate.

(3)(a) An electric utility shall consider the social cost of greenhouse gas emissions, as determined by the commission for investor-owned utilities pursuant to RCW 80.28.405 and the department for consumer-owned utilities, when developing integrated resource plans and clean energy action plans. An electric utility must incorporate the social cost of greenhouse gas emissions as a cost adder when:

(i) Evaluating and selecting conservation policies, programs, and targets;

(ii) Developing integrated resource plans and clean energy action plans; and

(iii) Evaluating and selecting intermediate term and long-term resource options.

(b) For the purposes of this subsection (3): (i) Gas consisting largely of methane and other hydrocarbons derived from the decomposition of organic material in landfills, wastewater treatment facilities, and anaerobic digesters must be considered a nonemitting resource; and (ii) qualified biomass energy must be considered a nonemitting resource.

(4) To facilitate broad, equitable, and efficient implementation of chapter 288, Laws of 2019, a consumer-owned energy utility may enter into an agreement with a joint operating agency organized under chapter 43.52 RCW or other nonprofit organization to develop and implement a joint clean energy action plan in collaboration with other utilities.

(5) All other utilities may elect to develop a full integrated resource plan as set forth in subsection (1) of this section or, at a minimum, shall develop a resource plan that:

(a) Estimates loads for the next five and ((~~ten~~)) 10 years;

(b) Enumerates the resources that will be maintained and/or acquired to serve those loads;

(c) Explains why the resources in (b) of this subsection were chosen and, if the resources chosen are not: (i) Renewable resources; (ii) methods, commercially available technologies, or facilities for integrating renewable resources, including addressing any overgeneration event; or (iii) conservation and efficiency resources, why such a decision was made;

(d) By December 31, 2020, and in every resource plan thereafter, identifies how the utility plans over a ((~~ten~~)) 10-year period to implement RCW 19.405.040 and 19.405.050; and

(e) Accounts for:

(i) Modeled load forecast scenarios that consider the anticipated levels of zero emissions vehicle use in a utility's service area, including anticipated levels of zero emissions vehicle use in the utility's service area provided in RCW 47.01.520, if feasible;

(ii) Analysis, research, findings, recommendations, actions, and any other relevant information found in the electrification of transportation plans submitted under RCW 35.92.450, 54.16.430, and 80.28.365; and

(iii) Assumed use case forecasts and the associated energy impacts. Electric utilities may, but are not required to, use the forecasts generated by the mapping and forecasting tool created in RCW 47.01.520. This subsection (5)(e)(iii) applies only to plans due to be filed after September 1, 2023.

(6) Assessments for demand-side resources included in an integrated resource plan may include combined heat and power systems as one of the measures in a conservation supply curve. The value of recoverable waste heat resulting from combined heat and power must be reflected in analyses of cost-effectiveness under this subsection.

(7) An electric utility that is required to develop a resource plan under this section must complete its initial plan by September 1, 2008.

(8) Plans developed under this section must be updated on a regular basis, on intervals approved by the commission or the department, or at a minimum on intervals of two years.

(9) Plans shall not be a basis to bring legal action against electric utilities.

(10)(a) To maximize transparency, the commission, for investor-owned utilities, or the governing body, for consumer-owned utilities, may require an electric utility to make the utility's data input files available in a native format. Each electric utility shall publish its final plan either as part of an annual report or as a separate document available to the public. The report may be in an electronic form.

(b) Nothing in this subsection limits the protection of records containing commercial information under RCW 80.04.095.

((~~(11) By December 31, 2021, the department and the commission must adopt rules establishing the requirements for incorporating the cumulative impact analysis developed under RCW 19.405.140 into the criteria for developing clean energy action plans under this section.~~))

NEW SECTION. **Sec. 3.** A new section is added to chapter 19.280 RCW to read as follows:

(1) Electric utilities must in their planning and selection of renewable resources give reasonable consideration, consistent with prudent utility practice, to renewable resources that would use transmission services considered to be conditional firm under the tariff of the relevant transmission provider. For the purposes of this section, conditional firm service means any form of long-term firm point-to-point transmission service in which transmission customers are able to reserve service subject to specific and limited conditions under which the transmission provider may curtail the transmission customer's reservation of service prior to curtailment of other firm service.

(2) Electric utilities are encouraged to participate and contribute to statewide or multiutility planning activities and through interstate transmission planning processes.

(3) Electric utilities must consult with federal, interstate, and voluntary industry organizations with a role in the bulk power transmission system, including but not limited to the Bonneville power administration, the Pacific Northwest electric power and conservation planning council, NorthernGrid, the Western Power Pool, and public interest organizations in improving the planning and development of transmission capacity consistent with this act.

Sec. 4. RCW 80.50.060 and 2022 c 183 s 6 are each amended to read as follows:

(1)(a) The provisions of this chapter apply to the construction of energy facilities which includes the new construction of energy facilities and the reconstruction or enlargement of existing energy facilities where the net increase in physical capacity or dimensions resulting from such reconstruction or enlargement meets or exceeds those capacities or dimensions set forth in RCW 80.50.020 (14) and (29). No construction or reconstruction of such energy facilities may be undertaken, except as otherwise provided in this chapter, without first obtaining certification in the manner provided in this chapter.

(b) If applicants proposing the following types of facilities choose to receive certification under this chapter, the provisions of this chapter apply to the construction, reconstruction, or enlargement of these new or existing facilities:

(i) Facilities that produce refined biofuel, but which are not capable of producing 25,000 barrels or more per day;

(ii) Alternative energy resource facilities;

(iii) Electrical transmission facilities: (A) Of a nominal voltage of at least 115,000 volts; and (B) located in more than one jurisdiction that has promulgated land use plans or zoning ordinances;

(iv) Clean energy product manufacturing facilities; and

(v) Storage facilities.

(c) All of the council's powers with regard to energy facilities apply to all of the facilities in (b) of this subsection and these facilities are subject to all provisions of this chapter that apply to an energy facility.

(2)(a) The provisions of this chapter must apply to ((~~the~~)):

(i) The construction, reconstruction, or enlargement of new or existing electrical transmission facilities: (A) Of a nominal voltage of at least 500,000 volts alternating current or at least 300,000 volts direct current; (B) located in more than one county; and (C) located in the Washington service area of more than one retail electric utility; and

(ii) The construction, reconstruction, or modification of electrical transmission facilities when the facilities are located in a national interest electric transmission corridor as specified in RCW 80.50.045.

(b) For the purposes of this subsection, "modification" means a significant change to an electrical transmission facility and does not include the following: (i) Minor improvements such as the replacement of existing transmission line facilities or supporting structures with equivalent facilities or structures; (ii) the relocation of existing electrical transmission line facilities; (iii) the conversion of existing overhead lines to underground; or (iv) the placing of new or additional conductors, supporting structures, insulators, or their accessories on or replacement of supporting structures already built.

(3) The provisions of this chapter shall not apply to normal maintenance and repairs which do not increase the capacity or dimensions beyond those set forth in RCW 80.50.020 (14) and (29).

(4) Applications for certification of energy facilities made prior to July 15, 1977, shall continue to be governed by the applicable provisions of law in effect on the day immediately preceding July 15, 1977, with the exceptions of RCW 80.50.071 which shall apply to such prior applications and to site certifications prospectively from July 15, 1977.

(5) Applications for certification shall be upon forms prescribed by the council and shall be supported by such information and technical studies as the council may require.

(6) Upon receipt of an application for certification under this chapter, the chair of the council shall notify:

(a) The appropriate county legislative authority or authorities where the proposed facility is located;

(b) The appropriate city legislative authority or authorities where the proposed facility is located;

(c) The department of archaeology and historic preservation; and

(d) The appropriate federally recognized tribal governments that may be affected by the proposed facility.

(7) The council must work with local governments where a project is proposed to be sited in order to provide for meaningful participation and input during siting review and compliance monitoring.

(8) The council must consult with all federally recognized tribes that possess resources, rights, or interests reserved or protected by federal treaty, statute, or executive order in the area where an energy facility is proposed to be located to provide early and meaningful participation and input during siting review and compliance monitoring. The chair and designated staff must offer to conduct government-to-government consultation to address issues of concern raised by such a tribe. The goal of the consultation process is to identify tribal resources or rights potentially affected by the proposed energy facility and to seek ways to avoid, minimize, or mitigate any adverse effects on tribal resources or rights. The chair must provide regular updates on the consultation to the council throughout the application review process. The report from the council to the governor required in RCW 80.50.100 must include a summary of the government-to-government consultation process that complies with RCW 42.56.300, including the issues and proposed resolutions.

(9) The department of archaeology and historic preservation shall coordinate with the affected federally recognized tribes and the applicant in order to assess potential effects to tribal cultural resources, archaeological sites, and sacred sites.

Sec. 5. RCW 80.50.045 and 2006 c 196 s 3 are each amended to read as follows:

(1) The council shall consult with other state agencies, utilities, local municipal governments, public interest groups, tribes, and other interested persons to convey their views to the secretary and the federal energy regulatory commission regarding appropriate limits on federal regulatory authority in the siting of electrical transmission corridors in the state of Washington.

(2) The council is designated as the state authority for purposes of siting transmission facilities under ((~~the national energy policy act of 2005~~)) Title 16 U.S.C. Sec. 824p and for purposes of other such rules or regulations adopted by the secretary. The council's authority regarding transmission facilities under this subsection is limited to those transmission facilities that are the subject of ((~~section 1221 of the national energy policy act~~)) Title 16 U.S.C. Sec. 824p and this chapter.

(3) For the construction and modification of transmission facilities that are the subject of ((~~section 1221 of the national energy policy act~~)) Title 16 U.S.C. Sec. 824p, the council may: (a) Approve the siting of the facilities; and (b) consider the interstate benefits expected to be achieved by the proposed construction or modification of the facilities in the state.

(4) When developing recommendations as to the disposition of an application for the construction or modification of transmission facilities under this chapter, the fuel source of the electricity carried by the transmission facilities shall not be considered.

(5) For electrical transmission projects proposed or sited by a federal agency, the director must coordinate state agency participation in environmental review under the national environmental policy act.

NEW SECTION. **Sec. 6.** A new section is added to chapter 43.21C RCW to read as follows:

NONPROJECT ENVIRONMENTAL REVIEWS.

(1) The energy facility site evaluation council shall prepare nonproject environmental impact statements, pursuant to RCW 43.21C.030, that assess and disclose the probable significant adverse environmental impacts, and that identify related mitigation measures for electrical transmission facilities with a nominal voltage of 230kV or greater.

(2) The scope of a nonproject environmental review is limited to the probable, significant adverse environmental impacts in geographic areas that are suitable for the electrical transmission facilities with a nominal voltage of 230kV or greater. The energy facility site evaluation council may consider standard attributes for likely development, proximity to existing transmission or complementary facilities, and planned corridors for transmission capacity construction, reconstruction, or enlargement. The nonproject review is not required to evaluate geographic areas that lack the characteristics necessary for electrical transmission facilities with a nominal voltage of 230kV or greater.

(3)(a) The scope of nonproject environmental impact statements must consider, as appropriate, analysis of the following probable significant adverse environmental impacts, including direct, indirect, and cumulative impacts to:

(i) Historic and cultural resources;

(ii) Species designated for protection under RCW 77.12.020 or the federal endangered species act;

(iii) Landscape scale habitat connectivity and wildlife migration corridors;

(iv) Environmental justice and overburdened communities as defined in RCW 70A.02.010;

(v) Cultural resources and elements of the environment relevant to tribal rights, interests, and resources including tribal cultural resources, and fish, wildlife, and their habitat;

(vi) Land uses, including agricultural and ranching uses; and

(vii) Military installations and operations.

(b) The nonproject environmental impact statements must identify measures to avoid, minimize, and mitigate probable significant adverse environmental impacts identified during the review. These include measures to mitigate probable significant adverse environmental impacts to elements of the environment as defined in WAC 197-11-444 as it existed as of January 1, 2023, tribal rights, interests, and resources, including tribal cultural resources, as identified in RCW 70A.65.305, and overburdened communities as defined in RCW 70A.02.010. The energy facility site evaluation council shall consult with other agencies with expertise in identification and mitigation of probable, significant adverse environmental impacts including, but not limited to, the department of fish and wildlife. The energy facility site evaluation council shall further specify when probable, significant adverse environmental impacts cannot be mitigated.

(4) In defining the scope of nonproject review of electrical transmission facilities with a nominal voltage of 230kV or greater, the energy facility site evaluation council shall request input from agencies, federally recognized Indian tribes, industry, stakeholders, local governments, and the public to identify the geographic areas suitable for electrical transmission facilities with a nominal voltage of 230kV or greater, based on the climatic and geophysical attributes conducive to or required for project development. The energy facility site evaluation council will provide opportunities for the engagement of tribes, overburdened communities, and stakeholders that self-identify an interest in participating in the process.

(5) The energy facility site evaluation council must offer early and meaningful consultation with any affected federally recognized Indian tribe on the nonproject review under this section for the purpose of understanding potential impacts to tribal rights and resources, including tribal cultural resources, archaeological sites, sacred sites, fisheries, or other rights and interests in tribal lands and lands within which an Indian tribe or tribes possess rights reserved or protected by federal treaty, statute, or executive order. The consultation is independent of, and in addition to, any public participation process required by state law, or by a state agency. The goal of the consultation process is to support the nonproject review by early identification of tribal rights, interests, or resources, including tribal cultural resources, potentially affected by the project type and identifying solutions, when possible, to avoid, minimize, or

mitigate any adverse effects on tribal rights, interests, or resources, including tribal cultural resources, based on environmental or permit review.

(6) Final nonproject environmental review documents for the electrical transmission facilities with a nominal voltage of 230kV or greater, where applicable, must include maps identifying probable, significant adverse environmental impacts for the resources evaluated. Maps must be prepared with the intention to illustrate probable, significant impacts and areas where impacts are avoided or capable of being minimized or mitigated, creating a tool that may be used by project proponents, tribes, and government to inform decision making. Maps may not include confidential information, such as locations of sacred cultural sites or locations of populations of certain protected species.

(7) For transmission line projects utilizing an existing transmission right-of-way or that are located along a transportation corridor or transmission projects utilizing an existing transmission right-of-way, the reasonable alternatives analysis required under this section is limited to the proposed action and a no action alternative.

NEW SECTION. **Sec. 7.** A new section is added to chapter 43.21C RCW to read as follows:

LEAD AGENCY USE OF NONPROJECT ENVIRONMENTAL IMPACT STATEMENT.

(1) A lead agency conducting a project-level environmental review under this chapter of an electrical transmission facility with a nominal voltage of 230kV or greater must consider a nonproject environmental impact statement completed pursuant to section 6 of this act in order to identify and mitigate project-level probable significant adverse environmental impacts.

(2)(a) Project-level environmental review conducted pursuant to this chapter of an electrical transmission facility with a nominal voltage of 230kV or greater must begin with the review of the applicable nonproject environmental impact statement completed pursuant to section 6 of this act. The review must address any probable significant adverse environmental impacts associated with the proposal that were not analyzed in the nonproject environmental impact statements pursuant to section 6 of this act. The review must identify any mitigation measures specific to the project for probable significant adverse environmental impacts.

(b) Lead agencies reviewing site-specific project proposals for electrical transmission facilities with a nominal voltage of 230kV or greater shall use the nonproject review described in section 6 of this act through one of the following methods and in accordance with WAC 197-11-600, as it existed as of January 1, 2023:

(i) Use of the nonproject review unchanged, in accordance with RCW 43.21C.034, if the project does not cause probable significant adverse environmental impact not identified in the nonproject review;

(ii) Preparation of an addendum;

(iii) Incorporation by reference; or

(iv) Preparation of a supplemental environmental impact statement.

(3) Proposals for electrical transmission facilities with a nominal voltage of 230kV or greater following the recommendations developed in the nonproject environmental review completed pursuant to section 6 of this act are considered to have mitigated the probable significant adverse project-specific

environmental impacts under this chapter for which recommendations were specifically developed unless the project-specific environmental review identifies project-level probable significant adverse environmental impacts not addressed in the nonproject environmental review.

Passed by the Senate April 14, 2023.
Passed by the House April 5, 2023.
Approved by the Governor May 3, 2023.
Filed in Office of Secretary of State May 4, 2023.

AUTHENTICATION

I, Kathleen Buchli, Code Reviser of the State of Washington, certify that, with the exception of such corrections as I have made in accordance with the powers vested in me by RCW 44.20.060, the laws published in this volume are a true and correct reproduction of the copies of the enrolled laws of the 2023 session (68th Legislature), chapters 1 through 229, as certified and transmitted to the Statute Law Committee by the Secretary of State under RCW 44.20.020.

IN TESTIMONY WHEREOF, I have hereunto set my hand at Olympia, Washington, this 5th day of June, 2023.

Kathleen Buchli
Code Reviser