

SIXTY SEVENTH LEGISLATURE - REGULAR SESSION

FORTY SIXTH DAY

House Chamber, Olympia, Thursday, February 24, 2022

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

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

RESOLUTION

HOUSE RESOLUTION NO. 2022-4652, by Representatives Caldier, Chambers, Callan, and Ramos

WHEREAS, The United States owes an immeasurable debt to members of the armed forces who fought for our country on the front lines of World War II, spending months overseas away from their families during long deployments in the most dangerous circumstances imaginable; and

WHEREAS, The U.S. Marine Raiders were the first special forces unit formed in the American military in February 1942 in four battalions - Edson, Carlson, Roosevelt, and Liversedge - during World War II; and

WHEREAS, The U.S. Marine Raiders played a large role in victories at Makin Island, Tulagi, Guadalcanal, Guam, and Okinawa during World War II; and

WHEREAS, According to the Marine Raider Association and Foundation, the WWII Marine Raider Battalions earned seven Medals of Honor, 141 Navy Crosses, and 330 Silver Stars; and

WHEREAS, Charles "Chuck" Meacham of Gig Harbor, Washington, served in the United States Marine Corps 3rd Marine Raider Battalion Unit during World War II on the Pacific Islands of Bougainville, Emirau, Guam, and Okinawa; and

WHEREAS, Charles "Chuck" Meacham spent 24 consecutive months in the South Pacific engaging in combat as a BAR man on Bougainville, Emirau, Guam, and Okinawa; and

WHEREAS, Charles "Chuck" Meacham was involved in several first wave landings within Japanese held territory during World War II, including a rubber boat landing behind enemy lines in Bougainville; and

WHEREAS, After leaving the Marine Corps, Charles "Chuck" Meacham spent several years managing Alaska's Department of Fish and Game and as Assistant Secretary of the Interior in Washington, D.C.; and

WHEREAS, Charles "Chuck" Meacham now resides in the 26th Legislative District in Gig Harbor, WA, and has continued work to remember and honor the members of the WWII Marine Raider Battalions and those that were affected by the war in the Pacific Islands through charitable work;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State House of Representatives honor Charles "Chuck" Meacham of the United States Marine Corps 3rd Marine Raider Battalion for his immeasurable contributions and sacrifices to the United States of America and the original Marine Raiders' significant role in World War II.

There being no objection, HOUSE RESOLUTION NO. 4652 was adopted.

RESOLUTION

HOUSE RESOLUTION NO. 2022-4653, by Representatives Thai, Pollet, Wicks, Orwall, Morgan, Fey, Walen, and Callan

WHEREAS, Pediatric autoimmune neuropsychiatric disorders associated with streptococcal infection (PANDAS) and pediatric acute-onset neuropsychiatric syndromes (PANS) involve a misdirected autoimmune process that affects or weakens the blood-brain barrier in children; and

WHEREAS, Children afflicted with PANDAS or PANS display sudden, dramatic changes in personality manifesting as obsessive compulsive disorder (OCD), together with accompanying symptoms following a strep, bacterial, or viral infection; and

WHEREAS, Accompanying symptoms may include tics, intense fear or anxiety, depression, behavioral regression, deterioration in school performance, sensory sensitivities, severely restricted food intake, and more; and

WHEREAS, It is estimated that at least one in 200 children in the United States are affected by PANDAS/PANS; and

WHEREAS, Children with PANDAS/PANS can often go undiagnosed, misdiagnosed, or undertreated. PANDAS/PANS is likely as common as pediatric cancer and pediatric diabetes and can seriously affect health outcomes in a child's life; and

WHEREAS, Established standards of care for treatment of PANDAS/PANS include antibiotics, steroids, intravenous immunoglobulin, plasmapheresis, cognitive behavioral therapy, and anti-inflammatory medications and are used based on the needs of the child and the severity of an individual case; and

WHEREAS, Greater public awareness of this health issue is imperative to improve timely diagnosis and access to treatment so that health outcomes for affected children may be improved;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives recognize and honor the patients

and families affected by PANDAS/PANS and the practitioners who assist them.

There being no objection, HOUSE RESOLUTION NO. 4653 was adopted.

RESOLUTION

HOUSE RESOLUTION NO. 2022-4654, by Representatives Orcutt and Abbarno

WHEREAS, Over 150 years ago farmers settled in the Lewis River Valley in the area known as the Woodland Bottoms, growing corn, carrots, berries, other crops, and livestock; and

WHEREAS, The Woodland Bottoms lies within the floodplain of the Columbia and Lewis River and was prone to flooding that forced many farmers to have two farms, one in the Woodland Bottoms and another up in the surrounding foothills that forced the farmers to spend many hours traveling from one farm to the other to grow and harvest crops; and

WHEREAS, Devastating floods in 1876, 1894, and 1919 took their toll on farmers and, because the progressive farmers had finally had enough of the flooding waters, they developed a levee system that protected many acres of land and had a marked effect upon the local economy; and

WHEREAS, The dike was completed in January, 1921, but was breached by the Columbia River on May 30th at the north end of the Bottoms; and

WHEREAS, In 1922 the levee was repaired and protected the Bottoms and the town of Woodland, which relied on farmers for their prosperity; and

WHEREAS, E.C. Blue and L.N. Plomondon determined there needed to be a Thanksgiving type of celebration to commemorate the dike holding and the forthcoming prosperity of the farmers. In the spirit of good fellowship, with H.W. Mitchell being in charge, the community businesses gathered together and funded and organized an event; and

WHEREAS, In searching for a name, Gene Blue suggested Planters Day, because the farmers could plant their crops without fear of flooding, the first Planters Day was held on Friday, June 30, 1922. This first Planters Day was hailed as the "greatest event ever given in Woodland"; and

WHEREAS, In 1925 the Woodland Volunteer Fire Department was formed and they organized and funded the Planters Day celebration until 1970. But in 1970 the festival grew too large for a single organization to sustain, so the Planters Day committee was created and has continued to organize the celebration; and

WHEREAS, Over the years, Planters Days has included a parade, a street dance, a royal court, fireworks, a children's parade, firefighters muster/red ball competition, penny scramble, frog jumping contest, logging show events, motorcycle events, classic car show, bed races, military exhibitions, and truck and tractor rodeos; and

WHEREAS, There is a deep sense of pride in the Woodland community, an immense amount of volunteer time, dedication and cooperation by many individuals which has continued this incredible legacy; and

WHEREAS, 2022 marks the centennial celebration of Planters Day;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives, does hereby recognize that June 16th through 19th, 2022, will constitute the Centennial celebration by Woodland Washington of its "Planters Days" and joins with the Woodland community in acknowledging this remarkable contribution to the history of Washington State.

There being no objection, HOUSE RESOLUTION NO. 4654 was adopted.

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

REPORTS OF STANDING COMMITTEES

February 22, 2022

E2SSB 5155 Prime Sponsor, Committee on Ways & Means: Concerning prejudgment interest. Reported by Committee on Civil Rights & Judiciary

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 4.56.110 and 2019 c 371 s 1 are each amended to read as follows:

Interest on judgments shall accrue as follows:

(1) Judgments founded on written contracts, providing for the payment of interest until paid at a specified rate, shall bear interest at the rate specified in the contracts: PROVIDED, That said interest rate is set forth in the judgment.

(2) All judgments for unpaid child support that have accrued under a superior court order or an order entered under the administrative procedure act shall bear interest at the rate of twelve percent.

(3) (a) (~~Judgments~~) (i) Except as otherwise provided in this subsection (3), judgments founded on the tortious conduct of a "public agency" as defined in RCW 42.30.020 shall bear interest from the date (~~of entry~~) the cause of action accrued at two percentage points above the equivalent coupon issue yield, as published by the board of governors of

the federal reserve system, of the average bill rate for twenty-six week treasury bills as determined at the first bill market auction conducted during the calendar month immediately preceding the date of entry. ~~((In any case where a court is directed on review to enter judgment on a verdict or in any case where a judgment entered on a verdict is wholly or partly affirmed on review, interest on the judgment or on that portion of the judgment affirmed shall date back to and shall accrue from the date the verdict was rendered.))~~

(ii) Judgments founded on tortious conduct that occurred while the plaintiff was a minor shall bear interest from the date of written notification to the defendant or the defendant's agent that an injury has occurred and that a claim may be brought or has been brought, at the same rate as in (a)(i) of this subsection (3).

(b)(i) Except as otherwise provided in ~~((a) of~~) this subsection (3), judgments founded on the tortious conduct of individuals or other entities that are not a "public agency" as defined in RCW 42.30.020, whether acting in their personal or representative capacities, shall bear interest from the date ~~((of entry))~~ the cause of action accrued at two percentage points above the prime rate, as published by the board of governors of the federal reserve system on the first business day of the calendar month immediately preceding the date of entry. ~~((In any case where a court is directed on review to enter judgment on a verdict or in any case where a judgment entered on a verdict is wholly or partly affirmed on review, interest on the judgment or on that portion of the judgment affirmed shall date back to and shall accrue from the date the verdict was rendered.))~~

(ii) Judgments founded on tortious conduct that occurred while the plaintiff was a minor shall bear interest from the date of written notification to the defendant or the defendant's agent that an injury has occurred and that a claim may be brought or has been brought, at the same rate as in (b)(i) of this subsection (3).

(4) Except as provided under subsection (1) of this section, judgments for unpaid private student loan debt, as defined in RCW 6.01.060, shall bear interest from the date of entry at two percentage points above the prime rate,

as published by the board of governors of the federal reserve system on the first business day of the calendar month immediately preceding the date of entry.

(5) Except as provided under subsection (1) of this section, judgments for unpaid consumer debt, as defined in RCW 6.01.060, shall bear interest from the date of entry at a rate of nine percent.

(6) Except as provided under subsections (1) through (5) of this section, judgments shall bear interest from the date of entry at the maximum rate permitted under RCW 19.52.020 on the date of entry thereof. In any case where a court is directed on review to enter judgment on a verdict or in any case where a judgment entered on a verdict is wholly or partly affirmed on review, interest on the judgment or on that portion of the judgment affirmed shall date back to and shall accrue from the date the verdict was rendered. The method for determining an interest rate prescribed by this subsection is also the method for determining the "rate applicable to civil judgments" for purposes of RCW 10.82.090.

NEW SECTION. Sec. 2. RCW 4.56.111 (Interest on judgments—Rate) and 2010 c 149 s 2 are each repealed."

Correct the title.

Signed by Representatives Hansen, Chair; Simmons, Vice Chair; Davis; Entenman; Goodman; Kirby; Orwall; Peterson; Thai; Valdez and Walen.

MINORITY recommendation: Do not pass. Signed by Representatives Walsh, Ranking Minority Member; Gilday, Assistant Ranking Minority Member; Graham, Assistant Ranking Minority Member; Abbarno; Klippert and Ybarra.

Referred to Committee on Appropriations.

February 23, 2022

SB 5196

Prime Sponsor, Senator Billig: Describing how the legislature may convene a special session. Reported by Committee on State Government & Tribal Relations

MAJORITY recommendation: Do pass. Signed by Representatives Valdez, Chair; Lekanoff, Vice Chair; Volz, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Dolan; Graham and Gregerson.

Referred to Committee on Rules for second reading.

February 22, 2022

2SSB 5241 Prime Sponsor, Committee on Ways & Means: Promoting economic inclusion. Reported by Committee on Housing, Human Services & Veterans

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. The legislature declares that economic inclusion shall be a top priority of Washington state's economic recovery. The legislature finds that the novel coronavirus has had a disproportionate effect upon at-risk communities. The legislature recognizes that for communities to thrive and remain vibrant, that recovery needs to be inclusive of people who are furthest away from opportunity and disproportionately more likely to experience economic hardship. The legislature acknowledges that stand-alone human service programs meet a pressing need but can be difficult to access for those lacking the resources to do so. The legislature recognizes that barriers to access can delay reentry into the workforce and career development. The legislature finds that leveraging or supporting the integration of existing benefits and services whenever possible will help people access the benefits they need to help them move out of poverty, without creating another duplicative system. The legislature finds that incorporating people with lived experience into systems development can help improve meaningful access to state programs. The legislature, therefore, intends to help facilitate an inclusive economic recovery by creating an economic inclusion grant program to provide greater access to resources for those in need.

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

(1) "Department" means the employment security department.

(2) "People experiencing poverty" means households whose income are at or below 200 percent of the federal poverty level.

(3) "Rural counties" has the same meaning as provided for in RCW 82.14.370.

(4) "Self-sufficiency" means a level of household income that is equal to or more than the self-sufficiency standard for a household as determined by the University of Washington's self-sufficiency calculator.

(5) "Steering committee" means the poverty reduction work group steering committee created in response to a directive of the governor, dated November 6, 2017.

NEW SECTION. Sec. 3. (1) The department, in consultation with the department of social and health services, the department of commerce, the department of children, youth, and families, the health care authority, the steering committee, and other stakeholders as determined by the department, shall make and oversee the implementation of local economic inclusion grants available to local communities to promote equity, economic inclusion, and a stable financial foundation for people experiencing poverty, with a particular focus on people of color and people in rural counties, primarily through better coordination of existing programs and resources. The purpose of these grants is to empower and incentivize local communities to coordinate existing poverty reduction resources and benefits to make them easier to access, get them to the people who need them, and work as a coordinated system, to help more people move out of poverty and be included in Washington's economic success.

(2) Subject to the availability of funds appropriated for this specific purpose, local economic inclusion grants shall be made available in communities throughout all regions of the state, including rural counties and urban communities for the purpose as described in subsection (1) of this section, with an emphasis on economically distressed communities as defined by the department.

(3) Recipients of local economic inclusion grants shall:

(a) Coordinate with existing local providers to make benefits easier to access and work as a coordinated system, to help more people move out of poverty and be included in Washington's economic success;

(b) Provide input to inform the work described in section 5 of this act, by identifying examples of federal regulations that prevent better local

coordination and identifying other needs for additional state or federal funding for continuous improvement of the poverty reduction system in future years;

(c) Utilize the existing local workforce development councils to develop local economic inclusion grant partnerships that must include people experiencing poverty, people of color, homelessness programs, and representatives of the health care authority, community service offices, accountable communities of health, and associate development organizations, and may include other members;

(d) Coordinate leadership among the local workforce development council, associate development council, and other organizations, and utilize the workforce development council as the fiscal agent;

(e) Work with people experiencing poverty to ensure they have access to multiple benefits to help them meet their basic needs, in alignment with local care coordination efforts, and when ready, develop individualized career plans leading to a self-sufficiency wage, which must be the level established by the University of Washington self-sufficiency standard;

(f) Provide streamlined access to local partners who can pay for education or training elements of a person's individualized career plan using federal Pell grants, the Washington college grant, or other resources;

(g) Provide streamlined access to local partners who can make monthly payments to the low-income person while in training, using existing resources such as incentive payments, work study payments, work experience payments, needs-related payments, or other financial aid or workforce development resources, as identified locally, and in consultation with technical assistance provided by the department. Such payments must work to maximize the total benefits available to the individual. To the extent possible under federal law, such payments must be structured so they do not reduce other benefits; including but not limited to the supplemental nutritional assistance program, temporary assistance for needy families, special supplemental nutrition program for women, infants, and children, medicaid, workforce innovation and opportunity act supportive services, or other financial and health benefits, and

may be comparable to payments received by trade adjustment assistance or Montgomery GI beneficiaries; in order to provide stability during training and education;

(h) Through the local workforce development councils, develop a local economic inclusion grant coordination team that works to ensure easier access to all state and local government services, and identifies staff to be care and benefits navigators. These may be existing coordinators and navigators if solutions are already in place for the community to build upon rather than duplicate. The care and benefit navigators must provide convenient one-stop access to benefits available to people experiencing poverty. At a minimum, it shall be encouraged that people served by the economic inclusion grants apply for and, if eligible, receive supplemental nutritional assistance program, temporary assistance for needy families, medicaid, workforce innovation and opportunity act supportive services, or other financial and health benefits, as deemed eligible and appropriate for each person. To the extent allowable under federal law, access to benefits may not be conditioned upon seeking employment nor limited to people pursuing individual career plans, and benefits must be available to people experiencing poverty who are in need of financial stability whether or not they are pursuing career plans;

(i) Ensure equitable access to state and local government services for people with disabilities, which may include equipment and technology purchases;

(j) Both identify where federal barriers hinder efforts to coordinate benefits for customers, and elevate those issues to the department. The department, in consultation with the department of social and health services, the department of commerce, the department of children, youth, and families, the health care authority, the steering committee, and other stakeholders as identified by the department may apply for federal waivers and propose federal law changes to make the authorizing environment better support coordinated service delivery across programs;

(k) Ensure options for career development, English language learners, and other services for both parents in two-parent families, including child care if desired by the family; and

(1) When available, use the local and state teams already in place for similar efforts, expanding the partners on those teams as needed to meet the requirements of this section.

NEW SECTION. Sec. 4. In managing the economic inclusion grants, the department shall consult with the steering committee. Members of the steering committee must be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060, as well as child care and other expenses as needed for each day a steering committee member attends meetings to provide consultative assistance to the agencies managing the economic inclusion grants; for up to 12 meetings per calendar year.

NEW SECTION. Sec. 5. (1) The department, in consultation with the department of social and health services, the department of commerce, the department of children, youth, and families, the health care authority, the steering committee, and other stakeholders as identified by the department, shall develop a comprehensive list of federal waivers to remove federal barriers to coordinating service delivery across multiple programs. Where waivers are not possible, the department shall develop a comprehensive list of federal rules and or policies that are creating barriers and include this information. Information developed in this section shall be included in the annual report as provided for in subsection (4) of this section.

(2) The department of social and health services, in consultation with the department, the department of commerce, the department of children, youth, and families, the health care authority, the steering committee, and other stakeholders as determined by the department, shall further develop measures and indicators of equitable and inclusive economic recovery already underway in the department of social and health services technical advisory group on inclusive economic recovery, and apply those measures as needed to help promote economic recovery that is racially equitable and fully inclusive of people experiencing poverty, people of color, people in rural counties, people with disabilities, and other key demographics that have historically been left behind in economic recovery.

(3) In the event an applicant has not submitted adequate documentation to participate within three months after grant announcement, the agencies may redistribute the unclaimed funding to other participating local areas.

(4) By November 15, 2022, and annually thereafter, and in compliance with RCW 43.01.036, the department, in consultation with the department of social and health services, the department of commerce, the department of children, youth, and families, the health care authority, and the steering committee shall report to the governor, the appropriate committees of the legislature, and the legislative-executive work-first poverty reduction oversight task force. The annual report must include progress reports, an estimate of costs avoided by the state when a person moves out of poverty and into self-sufficiency, measures of equitable and inclusive economic recovery, and model legislative language to further expand economic inclusion, reduce poverty, and increase coordinated service delivery across programs and agencies.

NEW SECTION. Sec. 6. Sections 1 through 5 of this act constitute a new chapter in Title 43 RCW."

Correct the title.

Signed by Representatives Peterson, Chair; Taylor, Vice Chair; Gilday, Ranking Minority Member; Barkis, Assistant Ranking Minority Member; Bateman; Chopp; Donaghy and Leavitt.

MINORITY recommendation: Without recommendation. Signed by Representative Jacobsen.

Referred to Committee on Appropriations.

February 22, 2022

ESSB 5245 Prime Sponsor, Committee on Human Services, Reentry & Rehabilitation: Concerning the safety of crime victims. Reported by Committee on Public Safety

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 72.09.712 and 2021 c 215 s 160 are each amended to read as follows:

(1) At the earliest possible date, and in no event later than thirty days before release except in the event of escape or emergency furloughs as defined in RCW 72.66.010, the department of corrections shall send written notice of parole, release, community custody, work release placement, furlough, or escape about a specific inmate convicted of a violent offense, a sex offense as defined by RCW 9.94A.030, a domestic violence court order violation pursuant to 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, (~~or~~) a felony harassment offense as defined by RCW 9A.46.060 or 9A.46.110, a domestic violence offense as defined by RCW 10.99.020, an assault in the third degree offense as defined by RCW 9A.36.031, an unlawful imprisonment offense as defined by RCW 9A.40.040, a vehicular homicide by disregard for the safety of others offense as defined by RCW 46.61.520, or a controlled substances homicide offense as defined by RCW 69.50.415, to the following:

(a) The chief of police of the city, if any, in which the inmate will reside or in which placement will be made in a work release program; and

(b) The sheriff of the county in which the inmate will reside or in which placement will be made in a work release program.

The sheriff of the county where the offender was convicted shall be notified if the department does not know where the offender will reside. The department shall notify the state patrol of the release of all sex offenders, and that information shall be placed in the Washington crime information center for dissemination to all law enforcement.

(2) The same notice as required by subsection (1) of this section shall be sent to the following if such notice has been requested in writing about a specific inmate convicted of a violent offense, a sex offense as defined by RCW 9.94A.030, a domestic violence court order violation pursuant to 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, (~~or~~) a felony harassment offense as defined by RCW 9A.46.060 or 9A.46.110, a domestic violence offense as defined by RCW 10.99.020, an assault in the third degree

offense as defined by RCW 9A.36.031, an unlawful imprisonment offense as defined by RCW 9A.40.040, a vehicular homicide by disregard for the safety of others offense as defined by RCW 46.61.520, or a controlled substances homicide offense as defined by RCW 69.50.415:

(a) The victim of the crime for which the inmate was convicted or the victim's next of kin if the crime was a homicide;

(b) Any witnesses who testified against the inmate in any court proceedings involving the violent offense;

(c) Any person specified in writing by the prosecuting attorney; and

(d) Any person who requests such notice about a specific inmate convicted of a sex offense as defined by RCW 9.94A.030 from the department of corrections at least sixty days prior to the expected release date of the offender.

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 inmate. Whenever the department of corrections mails notice pursuant to this subsection and the notice is returned as undeliverable, the department shall attempt alternative methods of notification, including a telephone call to the person's last known telephone number.

(3) The existence of the notice requirements contained in subsections (1) and (2) of this section shall not require an extension of the release date in the event that the release plan changes after notification.

(4) If an inmate convicted of a violent offense, a sex offense as defined by RCW 9.94A.030, a domestic violence court order violation pursuant to 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, (~~or~~) a felony harassment offense as defined by RCW 9A.46.060 or 9A.46.110, a domestic violence offense as defined by RCW 10.99.020, an assault in the third degree offense as defined by RCW 9A.36.031, an unlawful imprisonment offense as defined by RCW 9A.40.040, a vehicular homicide by disregard for the safety of others

offense as defined by RCW 46.61.520, or a controlled substances homicide offense as defined by RCW 69.50.415, escapes from a correctional facility, the department of corrections 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 inmate resided immediately before the inmate's arrest and conviction. If previously requested, the department shall also notify the witnesses and the victim of the crime for which the inmate was convicted or the victim's next of kin if the crime was a homicide. If the inmate is recaptured, the department 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.

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

(6) The department of corrections 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.

(7) The department of corrections shall keep, for a minimum of two years following the release of an inmate, the following:

(a) A document signed by an individual as proof that that person is registered in the victim or witness notification program; and

(b) A receipt showing that an individual registered in the victim or witness notification program was mailed a notice, at the individual's last known address, upon the release or movement of an inmate.

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

(9) Nothing in this section shall impose any liability upon a chief of police of a city or sheriff of a county for failing to request in writing a

notice as provided in subsection (1) of this section.

NEW SECTION. Sec. 2. A new section is added to chapter 36.28A RCW to read as follows:

Information and records prepared, owned, used, or retained by the Washington association of sheriffs and police chiefs revealing the existence of a notification, or of registration to be notified, regarding any specific individual, or the identity of or any information submitted by a person who registers to be notified of a person's custody or supervision status, upcoming hearing, case disposition, or service of a protection order pursuant to the statewide city and county jail booking and reporting system created in RCW 36.28A.040, the statewide automated victim information and notification system created in RCW 36.28A.040, or any other program used for the purposes of notifying individuals of a person's custody or supervision status, upcoming hearing, case disposition, or service of a protection order, are exempt from public inspection and copying under chapter 42.56 RCW.

NEW SECTION. Sec. 3. A new section is added to chapter 42.56 RCW to read as follows:

Information and records related to notification or registration for notification as described in section 2 of this act are exempt from disclosure under this chapter.

NEW SECTION. Sec. 4. This act takes effect July 1, 2022."

Correct the title.

Signed by Representatives Goodman, Chair; Johnson, J., Vice Chair; Mosbrucker, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Davis; Graham; Griffey; Hackney; Orwall; Ramos; Simmons; Thai and Young.

Referred to Committee on Rules for second reading.

February 23, 2022

2ESSB 5275 Prime Sponsor, Committee on Housing & Local Government: Enhancing opportunity in limited areas of more intense rural development. Reported by Committee on Local Government

MAJORITY recommendation: Do pass. Signed by Representatives Pollet, Chair; Duerr, Vice Chair;

Goehner, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Berg; Robertson and Senn.

Referred to Committee on Rules for second reading.

February 23, 2022

SSB 5496 Prime Sponsor, Committee on Health & Long Term Care: Concerning health professional monitoring programs. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass. Signed by Representatives Cody, Chair; Bateman, Vice Chair; Schmick, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; Bronoske; Davis; Harris; Macri; Maycumber; Riccelli; Rude; Simmons; Stonier; Tharinger and Ybarra.

Referred to Committee on Rules for second reading.

February 23, 2022

SB 5518 Prime Sponsor, Senator Muzzall: Concerning the occupational therapy licensure compact. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass. Signed by Representatives Cody, Chair; Bateman, Vice Chair; Schmick, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; Bronoske; Davis; Harris; Macri; Maycumber; Riccelli; Rude; Simmons; Stonier; Tharinger and Ybarra.

Referred to Committee on Rules for second reading.

February 23, 2022

SB 5529 Prime Sponsor, Senator Cleveland: Concerning self-directed care. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 74.39.007 and 1999 c 336 s 2 are each amended to read as follows:

The definitions in this section apply throughout RCW 74.39.007, 74.39.050, (~~74.39.060~~) 74.39.070, 43.190.060, and section 1, chapter 336, Laws of 1999 unless the context clearly requires otherwise.

(1) "Self-directed care" means the process in which an adult person, who is prevented by a functional disability from performing a manual function related to health care that an individual would

otherwise perform for himself or herself, chooses to direct and supervise a paid personal aide to perform those tasks.

(2) "Personal aide" means an individual, working privately or as an individual provider (~~(under contract or agreement with the department of social and health services))~~ as defined in RCW 74.39A.240, who acts at the direction of an adult person with a functional disability living in his or her own home (~~(and provides that person with health care services that a person))~~ to assist with the physical performance of a health care task, as described in RCW 74.39.050, that persons without a functional disability can perform themselves.

Sec. 2. RCW 74.39.050 and 1999 c 336 s 3 are each amended to read as follows:

(1) An adult person with a functional disability living in his or her own home may direct and supervise a paid personal aide in the performance of a health care task.

(2) The following requirements shall guide the provision of self-directed care under chapter 336, Laws of 1999:

(a) Health care tasks are those medical, nursing, or home health services that enable the person to maintain independence, personal hygiene, and safety in his or her own home, and that are services that a person without a functional disability would customarily and personally perform without the assistance of a licensed health care provider.

(b) The individual who chooses to self-direct a health care task is responsible for initiating self-direction by informing the health care professional who has ordered the treatment which involves that task of the individual's intent to perform that task through self-direction.

(c) When state funds are used to pay for self-directed tasks, a description of those tasks will be included in the client's comprehensive assessment, and subject to review with each annual reassessment.

(d) When a licensed health care provider orders treatment involving a health care task to be performed through self-directed care, the responsibility to ascertain that the patient understands the treatment and will be able to follow through on the self-directed care task is

the same as it would be for a patient who performs the health care task for himself or herself, and the licensed health care provider incurs no additional liability when ordering a health care task which is to be performed through self-directed care.

(e) The role of the personal aide in self-directed care is limited to performing the physical aspect of health care tasks under the direction of the person for whom the tasks are being done. This shall not affect the ability of a person who acts as a personal aide by performing self-directed health care tasks to also provide other home care services, such as personal care or homemaker services, which enable the client to remain at home.

(f) The responsibility to initiate self-directed health care tasks, to possess the necessary knowledge and training for those tasks, and to exercise judgment regarding the manner of their performance rests and remains with the person who has chosen to self-direct those tasks, including the decision to employ and dismiss a personal aide.

Sec. 3. RCW 74.39.070 and 1999 c 336 s 8 are each amended to read as follows:

A personal aide, in the performance of a health care task, who is directed and supervised by a person with a functional disability in his or her own home, is exempt from any legal requirement to qualify and be credentialed by the department of health as a health care provider under Title 18 RCW to the extent of the responsibilities provided and health care tasks performed under chapter 336, Laws of 1999. Nothing in this section exempts an individual provider from being required to become a certified home care aide under chapter 18.88B RCW.

NEW SECTION. Sec. 4. RCW 74.39.060 (Personal aide providers—Registration) and 1999 c 336 s 4 are each repealed."

Correct the title.

Signed by Representatives Cody, Chair; Bateman, Vice Chair; Schmick, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; Bronoske; Davis; Harris; Macri; Maycumber; Riccelli; Rude; Simmons; Stonier; Tharinger and Ybarra.

Referred to Committee on Rules for second reading.

February 23, 2022

SB 5534

Prime Sponsor, Senator Brown:
Concerning the use of verifiable credentials. Reported by Committee on State Government & Tribal Relations

MAJORITY recommendation: Do pass. Signed by Representatives Valdez, Chair; Lekanoff, Vice Chair; Volz, Ranking Minority Member; Dolan; Graham and Gregerson.

MINORITY recommendation: Without recommendation. Signed by Representative Walsh, Assistant Ranking Minority Member.

Referred to Committee on Appropriations.

February 22, 2022

ESSB 5544

Prime Sponsor, Committee on Environment, Energy & Technology:
Establishing the Washington blockchain work group. Reported by Committee on Community & Economic Development

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) Subject to the availability of amounts appropriated for this specific purpose, the Washington blockchain work group is established. The purpose of the work group is to examine various potential applications of and policies for blockchain technology including, but not limited to, applications in computing, banking and other financial services, the real estate transaction process, health care, supply chain management, higher education, identity verification, and public recordkeeping to help attract and support employees and new businesses with a supportive ecosystem.

(2) The work group is composed of the following members:

(a) The director of the department of commerce or the director's designee;

(b) An individual representing a federally recognized tribe located in Washington;

(c) A cybersecurity expert with experience in blockchain technology or its applications;

(d) An individual representing a Washington-based technology trade association for the full cross section of the technology sector;

(e) An individual from the Cascadia blockchain council;

(f) An individual from a higher education institution in the field of blockchain;

(g) An individual representing a trade association for financial services companies that do business in Washington;

(h) An individual representing a trade association for title insurance companies that do business in Washington;

(i) An individual representing a trade association for health care companies that do business in Washington;

(j) An individual representing an association for county government officials in Washington;

(k) An individual representing a trade association for Washington-based agriculture;

(l) An individual representing a trade association for property and casualty insurance companies that do business in Washington;

(m) An individual representing a consumer advocacy organization;

(n) An individual representing a large company who has experience working with blockchain applications;

(o) An individual representing a small company who has experience working with blockchain applications;

(p) Two individuals representing the Washington state labor council working in the fields impacted by blockchain technology or its applications;

(q) Two individuals representing advocacy organizations that represent individuals or protected classes of communities historically impacted by surveillance technologies and bias in technology-based systems;

(r) An individual representing an environmental advocacy organization with expertise in energy policy;

(s) An individual representing an environmental advocacy organization with expertise in sustainability; and

(t) An individual representing an association for public utility districts in Washington.

(3) The individuals listed in subsection (2)(b) through (t) of this section must be designated by their

organization or association or the director of the department of commerce.

(4) The work group shall also include as members:

(a) One senator from each of the two largest caucuses of the senate, appointed by the president of the senate; and

(b) One representative from each of the two largest caucuses of the house of representatives, appointed by the speaker of the house of representatives.

(5) In addition to the members listed in subsections (2) and (4) of this section, the following individuals shall serve as ex officio members of the work group: The director of the department of financial institutions, or the director's designee; the director of Washington technology solutions, the consolidated technology services agency, or the director's designee; the director of the department of agriculture, or the director's designee; the insurance commissioner, or the insurance commissioner's designee; the director of the department of ecology, or the director's designee; the state auditor, or the state auditor's designee; the secretary of state, or the secretary's designee; the director of the department of revenue, or the director's designee; and the director of the health care authority, or the director's designee.

(6) In addition to the members of the work group under subsections (2), (4), and (5) of this section, individuals representing other sectors may be invited by the chair, in consultation with the other appointed members of the work group, to participate in an advisory capacity in meetings of the work group. Individuals participating in an advisory capacity under this subsection are not members of the work group, may not vote, and are not subject to the appointment process established in this section. There is no limit to the number of individuals who may participate in work group meetings in an advisory capacity under this subsection.

(7) A majority of the work group members constitutes a quorum. If a member has not been designated for a position set forth in this section, that position may not be counted for the purpose of determining a quorum.

(8) The work group shall hold its inaugural meeting by December 1, 2022. The work group shall elect a chair from

among its members at the inaugural meeting. The election of the chair must be by a majority vote of the work group members who are present at the inaugural meeting. The chair of the work group is responsible for arranging subsequent meetings and developing meeting agendas.

(9) Staff support for the work group, including arranging the inaugural meeting of the work group and assisting the chair of the work group in arranging subsequent meetings, must be provided by the department of commerce.

(10) Legislative members of the work group may be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members of the work group are not entitled to be reimbursed for travel expenses if they are elected officials or are participating on behalf of an employer, governmental entity, or other organization. Any reimbursement for other nonlegislative members is subject to chapter 43.03 RCW.

(11) The work group is a class one group under chapter 43.03 RCW.

(12) A public comment period must be provided at every meeting of the work group.

(13) The work group shall submit a report to the governor and the appropriate committees of the legislature by December 1, 2023, on potential uses and impacts of blockchain, including impacts on existing industries, utilities, demand for electricity, and demand for computer processing capacity, and recommended policies that will facilitate the development of blockchain applications and the sector overall in Washington, grow the related workforce, evaluate environmental advantages and concerns, make Washington a favorable place to do business, address racial equity considerations, and improve the lives of Washington residents.

(14) The work group may create subcommittees to perform duties under this section.

(15) This section expires January 1, 2024. The work group is dissolved upon the expiration of this section."

Correct the title.

Signed by Representatives Ryu, Chair; Paul, Vice Chair; Boehnke, Ranking Minority Member; Corry; Donaghy;

Frame; Jacobsen; Johnson, J.; Rule; Sutherland and Taylor.

MINORITY recommendation: Without recommendation. Signed by Representative Chase, Assistant Ranking Minority Member.

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

Referred to Committee on Rules for second reading.

February 23, 2022

SB 5545 Prime Sponsor, Senator Wagoner: Concerning survivor benefits. Reported by Committee on College & Workforce Development

MAJORITY recommendation: Do pass. Signed by Representatives Slatter, Chair; Entenman, Vice Chair; Leavitt, Vice Chair; Chambers, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Chandler; Hansen; Hoff; Kraft; Paul; Pollet and Sells.

Referred to Committee on Rules for second reading.

February 23, 2022

SSB 5546 Prime Sponsor, Committee on Health & Long Term Care: Concerning insulin affordability. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass. Signed by Representatives Cody, Chair; Bateman, Vice Chair; Schmick, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; Bronoske; Davis; Harris; Macri; Maycumber; Riccelli; Rude; Simmons; Stonier; Tharinger and Ybarra.

Referred to Committee on Rules for second reading.

February 23, 2022

SSB 5548 Prime Sponsor, Committee on Law & Justice: Concerning the uniform unregulated child custody transfer act. Reported by Committee on Civil Rights & Judiciary

MAJORITY recommendation: Do pass. Signed by Representatives Hansen, Chair; Simmons, Vice Chair; Walsh, Ranking Minority Member; Gilday, Assistant Ranking Minority Member; Graham, Assistant Ranking Minority Member; Abbarno; Davis; Entenman; Goodman; Kirby; Klippert; Orwall; Peterson; Thai; Valdez; Walen and Ybarra.

Referred to Committee on Rules for second reading.

February 22, 2022

SB 5552 Prime Sponsor, Senator Van De Wege: Modifying miscellaneous provisions impacting department of fish and wildlife licensing requirements. Reported by Committee on Rural Development, Agriculture & Natural Resources

MAJORITY recommendation: Do pass. Signed by Representatives Valdez, Chair; Lekanoff, Vice Chair; Volz, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Dolan; Graham and Gregerson.

Referred to Committee on Rules for second reading.

MAJORITY recommendation: Do pass. Signed by Representatives Chapman, Chair; Shewmake, Vice Chair; Chandler, Ranking Minority Member; Dent, Assistant Ranking Minority Member; Fitzgibbon; Klicker; Kloba; Kretz; Lekanoff; McEntire; Morgan; Orcutt; Ramos; Schmick and Springer.

February 22, 2022

Referred to Committee on Rules for second reading.

SB 5585 Prime Sponsor, Senator Rolfes: Setting domestic wastewater discharge fees. Reported by Committee on Environment & Energy

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

February 23, 2022

ESB 5561 Prime Sponsor, Senator Dhingra: Concerning the restoration of the right to possess a firearm. Reported by Committee on Civil Rights & Judiciary

"**Sec. 1.** RCW 90.48.465 and 2009 c 456 s 6 and 2009 c 249 s 1 are each reenacted and amended to read as follows:

MAJORITY recommendation: Do pass. Signed by Representatives Hansen, Chair; Davis; Entenman; Goodman; Orwall; Peterson; Thai; Valdez and Walen.

(1) The department shall establish fees to collect expenses for issuing and administering each class of permits under RCW 90.48.160, 90.48.162, and 90.48.260. An initial fee schedule shall be established by rule and be adjusted no more often than once every two years. This fee schedule shall apply to all permits, regardless of date of issuance, and fees shall be assessed prospectively. All fees charged shall be based on factors relating to the complexity of permit issuance and compliance and may be based on pollutant loading and toxicity and be designed to encourage recycling and the reduction of the quantity of pollutants. Fees shall be established in amounts to fully recover and not to exceed expenses incurred by the department in processing permit applications and modifications, monitoring and evaluating compliance with permits, conducting inspections, securing laboratory analysis of samples taken during inspections, reviewing plans and documents directly related to operations of permittees, overseeing performance of delegated pretreatment programs, and supporting the overhead expenses that are directly related to these activities.

MINORITY recommendation: Do not pass. Signed by Representatives Simmons, Vice Chair; Walsh, Ranking Minority Member; Gilday, Assistant Ranking Minority Member; Graham, Assistant Ranking Minority Member; Abbarno; Kirby; Klippert and Ybarra.

Referred to Committee on Rules for second reading.

February 23, 2022

SSB 5575 Prime Sponsor, Committee on Law & Justice: Adding additional superior court judges in Snohomish county. Reported by Committee on Civil Rights & Judiciary

MAJORITY recommendation: Do pass. Signed by Representatives Hansen, Chair; Simmons, Vice Chair; Walsh, Ranking Minority Member; Gilday, Assistant Ranking Minority Member; Graham, Assistant Ranking Minority Member; Abbarno; Davis; Entenman; Goodman; Kirby; Klippert; Orwall; Peterson; Thai; Valdez; Walen and Ybarra.

Referred to Committee on Appropriations.

February 23, 2022

SB 5583 Prime Sponsor, Senator Trudeau: Requiring the adjustment of census data for local redistricting to reflect the last known place of residence for incarcerated persons. Reported by Committee on State Government & Tribal Relations

(2) ~~((The annual fee paid by a municipality, as defined in 33 U.S.C. Sec. 1362, for all domestic wastewater facility permits issued under RCW 90.48.162 and 90.48.260 shall not exceed the total of a maximum of eighteen cents per month per residence or residential~~

~~equivalent contributing to the municipality's wastewater system.~~

~~(3))~~ (3) The department shall ensure that indirect dischargers do not pay twice for the administrative expense of a permit. Accordingly, administrative expenses for permits issued by a municipality under RCW 90.48.165 are not recoverable by the department.

~~((4))~~ (3) In establishing fees, the department shall consider the economic impact of fees on small dischargers and the economic impact of fees on public entities required to obtain permits for stormwater runoff and shall provide appropriate adjustments.

~~((5))~~ (4) The fee for an individual permit issued for a dairy farm as defined under chapter 90.64 RCW shall be fifty cents per animal unit up to one thousand two hundred fourteen dollars for fiscal year 1999. The fee for a general permit issued for a dairy farm as defined under chapter 90.64 RCW shall be fifty cents per animal unit up to eight hundred fifty dollars for fiscal year 1999. Thereafter, these fees may rise in accordance with the fiscal growth factor as provided in chapter 43.135 RCW.

~~((6))~~ (5) The fee for a general permit or an individual permit developed solely as a result of the federal court of appeals decision in *Headwaters, Inc. v. Talent Irrigation District*, 243 F.3rd 526 (9th Cir. 2001) is limited, until June 30, 2003, to a maximum of three hundred dollars. Such a permit is required only, and as long as, the interpretation of this court decision is not overturned or modified by future court rulings, administrative rule making, or clarification of scope by the United States environmental protection agency or legislative action. In such a case the department shall take appropriate action to rescind or modify these permits.

~~((7))~~ (6) All fees collected under this section shall be deposited in the water quality permit account hereby created in the state treasury. Moneys in the account may be appropriated only for purposes of administering permits under RCW 90.46.220, 90.48.160, 90.48.162, and 90.48.260.

~~((8))~~ (7) The department shall present a biennial progress report on the use of moneys from the account to the legislature. The report will be due December 31st of odd-numbered years. The

report shall consist of information on fees collected, actual expenses incurred, and anticipated expenses for the current and following fiscal years.

NEW SECTION.

Sec. 2.

(1) (a) Recognizing the importance of close coordination and partnership between the department of ecology and municipal treatment plants, the department shall form an advisory committee, appointed by the director of ecology or the director's designee, to create recommendations for adjusting the fee schedule for permits authorized by RCW 90.48.162 and 90.48.165 by rule. The advisory committee must include:

(i) Two representatives of permitted facilities representing communities of 25,000 or fewer in population;

(ii) Two representatives of permitted facilities representing communities greater than 25,000 and up to 200,000 in population;

(iii) One representative of permitted facilities representing communities greater than 200,000 in population;

(iv) Two representatives of nonprofit environmental organizations;

(v) One representative of a statewide association representing cities;

(vi) One representative of a statewide association representing counties;

(vii) One representative of a statewide association representing special purpose districts with responsibilities for domestic wastewater; and

(viii) One representative of a statewide business association.

(b) The department must also offer tribal consultation and invite federally recognized tribes to participate on the advisory committee.

(2) By December 31, 2022, the advisory committee must submit recommendations to the department of ecology that will identify fees needed to fully recover expenses incurred by the department of ecology to administer municipal wastewater permits issued under RCW 90.48.162 and 90.48.260, as required under RCW 90.48.465(1), to include permit writing and public review, inspections and technical assistance, discharge monitoring reporting and data support, and supporting the overhead expenses

related to administering the wastewater discharge permits.

(3) The advisory committee recommendations must:

(a) Assess the municipal wastewater permitting backlogs and permit workloads;

(b) Assess staffing and revenue needed to meet state and federal legal mandates and the needs of permittees; and

(c) Recommend how to structure the permit fees to reduce permitting backlogs and achieve goals for timely issuance of permits under RCW 90.48.162 and 90.48.260.

(4) The department of ecology must use these recommendations as the basis, in a manner consistent with rule-making procedures under chapter 34.05 RCW, for updates in 2023 to the relevant water quality permit fees set in chapter 173-224 WAC. The department of ecology will present the recommendations of the advisory committee to the legislature at some point after the recommendations are available through the 2023 legislative session.

(5) This section expires January 1, 2024.

NEW SECTION. Sec. 3. Beginning in 2025, the department of ecology's biennial progress report required in RCW 90.48.465(7) must include information on the implementation of a revised fee structure for full cost recovery for municipal wastewater discharge permits and the use of the fees to administer the municipal discharge permitting program and issue permits in a timely manner. The biennial report must also include information demonstrating progress towards achieving the goal of reducing the wastewater discharge permit backlog to no more than 40 percent by July 1, 2025, and not more than a 20 percent backlog by July 1, 2027."

Correct the title.

Signed by Representatives Fitzgibbon, Chair; Duerr, Vice Chair; Berry; Fey; Harris-Talley; Ramel; Shewmake and Slatter.

MINORITY recommendation: Do not pass. Signed by Representatives Dye, Ranking Minority Member; Klicker, Assistant Ranking Minority Member; Abbarno; Boehnke and Goehner.

Referred to Committee on Rules for second reading.

February 23, 2022

SSB 5589

Prime Sponsor, Committee on Health & Long Term Care: Concerning statewide spending on primary care. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass. Signed by Representatives Cody, Chair; Bateman, Vice Chair; Schmick, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; Bronoske; Davis; Harris; Macri; Maycumber; Riccelli; Rude; Simmons; Stonier; Tharinger and Ybarra.

Referred to Committee on Appropriations.

February 22, 2022

SSB 5594

Prime Sponsor, Committee on Early Learning & K-12 Education: Concerning public school instruction in awareness of bone marrow donation. Reported by Committee on Education

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature 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 2022-23 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."

Correct the title.

Signed by Representatives Santos, Chair; Dolan, Vice Chair; Berg; Bergquist; Callan; McCaslin and Ortiz-Self.

MINORITY recommendation: Without recommendation. Signed by Representatives Ybarra, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; McEntire; Rude; Steele and Stonier.

Referred to Committee on Rules for second reading.

February 23, 2022

ESSB 5599 Prime Sponsor, Committee on Labor, Commerce & Tribal Affairs: Concerning

journey level electrician certifications of competency. Reported by Committee on Labor & Workplace Standards

MAJORITY recommendation: Do pass. Signed by Representatives Sells, Chair; Berry, Vice Chair; Bronoske and Ortiz-Self.

MINORITY recommendation: Do not pass. Signed by Representatives Hoff, Ranking Minority Member; Mosbrucker, Assistant Ranking Minority Member and Harris.

Referred to Committee on Rules for second reading.

February 22, 2022

SB 5607 Prime Sponsor, Senator Wilson, L.: Including individuals in jails and hospitals who were homeless before entering such facilities in the state's annual homeless census. Reported by Committee on Housing, Human Services & Veterans

MAJORITY recommendation: Do pass. Signed by Representatives Peterson, Chair; Taylor, Vice Chair; Gilday, Ranking Minority Member; Barkis, Assistant Ranking Minority Member; Bateman; Chopp; Donaghy; Jacobsen and Leavitt.

Referred to Committee on Rules for second reading.

February 23, 2022

SSB 5610 Prime Sponsor, Committee on Health & Long Term Care: Requiring cost sharing for prescription drugs to be counted against an enrollee's obligation, regardless of source. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass. Signed by Representatives Cody, Chair; Bateman, Vice Chair; Caldier, Assistant Ranking Minority Member; Bronoske; Davis; Macri; Maycumber; Riccelli; Simmons; Stonier and Tharinger.

MINORITY recommendation: Without recommendation. Signed by Representatives Schmick, Ranking Minority Member; Harris; Rude and Ybarra.

Referred to Committee on Rules for second reading.

February 23, 2022

2SSB 5619 Prime Sponsor, Committee on Ways & Means: Conserving and restoring kelp forests and eelgrass meadows in Washington state. Reported by Committee on Rural Development, Agriculture & Natural Resources

MAJORITY recommendation: Do pass. Signed by Representatives Chapman, Chair; Shewmake, Vice Chair; Chandler, Ranking Minority Member; Dent, Assistant Ranking Minority Member; Fitzgibbon; Klicker; Kloba; Kretz; Lekanoff; McEntire; Morgan; Orcutt; Ramos; Schmick and Springer.

Referred to Committee on Appropriations.

February 22, 2022

SB 5624 Prime Sponsor, Senator Warnick: Extending the expiration date of certain sections of chapter 92, Laws of 2019, regarding livestock identification. Reported by Committee on Rural Development, Agriculture & Natural Resources

MAJORITY recommendation: Do pass. Signed by Representatives Chapman, Chair; Shewmake, Vice Chair; Chandler, Ranking Minority Member; Dent, Assistant Ranking Minority Member; Fitzgibbon; Klicker; Kloba; Kretz; Lekanoff; McEntire; Morgan; Orcutt; Ramos; Schmick and Springer.

Referred to Committee on Rules for second reading.

February 23, 2022

SB 5629 Prime Sponsor, Senator Lovick: Concerning control of the disposition of remains. Reported by Committee on Civil Rights & Judiciary

MAJORITY recommendation: Do pass. Signed by Representatives Hansen, Chair; Simmons, Vice Chair; Walsh, Ranking Minority Member; Gilday, Assistant Ranking Minority Member; Graham, Assistant Ranking Minority Member; Abbarno; Davis; Entenman; Goodman; Kirby; Klippert; Orwall; Peterson; Thai; Valdez; Walen and Ybarra.

Referred to Committee on Rules for second reading.

February 23, 2022

2SSB 5643 Prime Sponsor, Committee on Ways & Means: Supporting youth development. Reported by Committee on Rural Development, Agriculture & Natural Resources

MAJORITY recommendation: Do pass. Signed by Representatives Chapman, Chair; Shewmake, Vice Chair; Chandler, Ranking Minority Member; Dent, Assistant Ranking Minority Member; Fitzgibbon; Klicker; Kloba; Kretz; Lekanoff; McEntire; Morgan; Orcutt; Ramos; Schmick and Springer.

Referred to Committee on Appropriations.

February 23, 2022

SSB 5644 Prime Sponsor, Committee on Behavioral Health Subcommittee to Health & Long Term Care: Concerning providing quality behavioral health co-response services. Reported by Committee on College & Workforce Development

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that behavioral health co-response has experienced a surge in popularity in Washington state in the past five years. The legislature recognizes the importance of training for those involved in co-responder programs to promote high standards within programs and to enhance the skills of those already working in this field. The purpose of this act is to develop best practice recommendations and a model training curriculum relevant to first responders and behavioral health professionals working on co-response teams, to create ongoing learning opportunities for emerging and established co-response programs, and to develop the workforce to fill future co-responder hiring needs.

NEW SECTION. **Sec. 2.** A new section is added to chapter 71.24 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the University of Washington shall, in consultation and collaboration with the co-responder outreach alliance and other stakeholders as appropriate in the field of co-response:

(a) Establish regular opportunities for police, fire, emergency medical services, peer counselors, and behavioral health personnel working in co-response to convene for activities such as training, exchanging information and best practices around the state and nationally, and providing the University of Washington with assistance with activities described in this section;

(b) Subject to the availability of amounts appropriated for this specific purpose, administer a small budget to help defray costs for training and professional development, which may include expenses related to attending or hosting site visits with experienced co-response teams;

(c) Develop an assessment to be provided to the governor and legislature by June 30, 2023, describing and analyzing the following:

(i) Existing capacity and shortfalls across the state in co-response teams and the co-response workforce;

(ii) Current alignment of co-response teams with cities, counties, behavioral health administrative services organizations, and call centers; distribution among police, fire, and EMS-based co-response models; and desired alignment;

(iii) Current funding strategies for co-response teams and identification of federal funding opportunities;

(iv) Current data systems utilized and an assessment of their effectiveness for use by co-responders, program planners, and policymakers;

(v) Current training practices and identification of future state training practices;

(vi) Alignment with designated crisis responder activities;

(vii) Recommendations concerning best practices to prepare co-responders to achieve objectives and meet future state crisis system needs, including those of the 988 system;

(viii) Recommendations to align co-responder activities with efforts to reform ways in which persons experiencing a behavioral health crisis interact with the criminal justice system; and

(ix) Assessment of training and educational needs for current and future co-responder workforce;

(d) Beginning in calendar year 2023, begin development of model training curricula for individuals participating in co-response teams; and

(e) Beginning in calendar year 2023, host an annual statewide conference that draws state and national co-responders.

(2) Stakeholders in the field of co-response may include, but are not limited to, the Washington association of designated crisis responders; state associations representing police, fire, and emergency medical services personnel; the Washington council on behavioral health; the state enhanced 911 system; 988 crisis call centers; and the peer workforce alliance."

Correct the title.

Signed by Representatives Slatter, Chair; Entenman, Vice Chair; Leavitt, Vice Chair; Chambers, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Chandler; Hansen; Hoff; Kraft; Paul; Pollet and Sells.

Referred to Committee on Rules for second reading.

February 22, 2022

2SSB 5649 Prime Sponsor, Committee on Ways & Means: Modifying the Washington state paid family and medical leave act. Reported by Committee on Labor & Workplace Standards

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 50A.05.010 and 2021 c 232 s 2 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 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; (~~(e)~~)

(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.

~~((20))~~ (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.

~~((21))~~ (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.

((~~22~~)) (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.

~~((23))~~ (24) "Service is localized in this state" has the same meaning as described in RCW 50.04.120.

~~((24))~~ (25) "Spouse" means a husband or wife, as the case may be, or state registered domestic partner.

~~((25))~~ (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.

~~((26))~~ (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.

~~((27))~~ (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.

~~((28))~~ (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.

Sec. 2. RCW 50A.05.090 and 2019 c 13 s 37 are each amended to read as follows:

(1) Nothing in this title requires any party to a collective bargaining agreement in existence on October 19, 2017, to reopen negotiations of the agreement or to apply any of the rights and responsibilities under this title unless and until the existing agreement is reopened or renegotiated by the parties or expires.

(2) This section expires December 31, 2023.

Sec. 3. RCW 50A.15.020 and 2020 c 125 s 4 are each amended to read as follows:

(1) Beginning January 1, 2020, family and medical leave are available and benefits are payable to a qualified employee under this section.

(a) Following a waiting period consisting of the first seven consecutive calendar days, benefits are payable when family or medical leave is required. However, no waiting period is required for leave for the birth or placement of a child, or for leave because of any qualifying exigency as defined under RCW 50A.05.010(10)(c). The waiting period begins the previous Sunday of the week when an otherwise eligible employee takes leave for the minimum claim duration under subsection (2)(c) of this section. Eligible employees may satisfy the waiting period requirement while

simultaneously receiving paid time off for any part of the waiting period.

(b) Benefits may continue during the continuance of the need for family or medical leave, subject to the maximum and minimum weekly benefits, duration, and other conditions and limitations established in this title.

(2) The weekly benefit shall be prorated by the percentage of hours on leave compared to the number of hours provided as the typical workweek hours as defined in RCW 50A.05.010.

(a) The benefits in this section, if not a multiple of one dollar, shall be reduced to the next lower multiple of one dollar.

(b) Hours on leave claimed for benefits under this title, if not a multiple of one hour, shall be reduced to the next lower multiple of one hour.

(c) The minimum claim duration payment is for eight consecutive hours of leave.

(3)(a) The maximum duration of paid family leave may not exceed twelve times the typical workweek hours during a period of fifty-two consecutive calendar weeks.

(b) The maximum duration of paid medical leave may not exceed twelve times the typical workweek hours during a period of fifty-two consecutive calendar weeks. This leave may be extended an additional two times the typical workweek hours if the employee experiences a serious health condition with a pregnancy that results in incapacity.

(c) An employee is not entitled to paid family and medical leave benefits under this title that exceeds a combined total of sixteen times the typical workweek hours. The combined total of family and medical leave may be extended to eighteen times the typical workweek hours if the employee experiences a serious health condition with a pregnancy that results in incapacity.

(4)(a) Any paid leave benefits under this chapter used in the postnatal period by an employee eligible for benefits under RCW 50A.05.010(23)(a)(ii)(B) must be medical leave, subject to the maximum and minimum weekly benefits, duration, and other conditions and limitations established in this title, unless the employee chooses to use family leave during the postnatal period.

(b) Certification of a serious health condition is not required for paid leave benefits used in the postnatal period by an employee eligible for benefits under RCW 50A.05.010(23) (a) (ii) (B).

(5) The weekly benefit for family and medical leave shall be determined as follows: If the employee's average weekly wage is: (a) Equal to or less than one-half of the state average weekly wage, then the benefit amount is equal to ninety percent of the employee's average weekly wage; or (b) greater than one-half of the state average weekly wage, then the benefit amount is the sum of: (i) Ninety percent of one-half of the state average weekly wage; and (ii) fifty percent of the difference of the employee's average weekly wage and one-half of the state average weekly wage.

~~((5))~~ (6)(a) The maximum weekly benefit for family and medical leave that occurs on or after January 1, 2020, shall be one thousand dollars. By September 30, 2020, and by each subsequent September 30th, the commissioner shall adjust the maximum weekly benefit amount to ninety percent of the state average weekly wage. The adjusted maximum weekly benefit amount takes effect on the following January 1st.

(b) The minimum weekly benefit shall not be less than one hundred dollars per week except that if the employee's average weekly wage at the time of family or medical leave is less than one hundred dollars per week, the weekly benefit shall be the employee's full wage.

Sec. 4. RCW 50A.25.020 and 2019 c 13 s 71 are each amended to read as follows:

(1) Any information or records concerning an individual or employer obtained by the department pursuant to the administration of this title shall be private and confidential, except as otherwise provided in this chapter or RCW 50A.05.040.

(2) This chapter does not create a rule of evidence.

(3) The department must publish, on its website, a current list of all employers that have approved voluntary plans under chapter 50A.30 RCW.

NEW SECTION. Sec. 5. A new section is added to chapter 50A.05 RCW to read as follows:

(1) The office of actuarial services is established within the department.

(2) The head of the office must be qualified by education and experience in the field of actuarial science.

Sec. 6. RCW 50A.15.040 and 2019 c 13 s 6 are each amended to read as follows:

(1) Family and medical leave insurance benefits are payable to an employee during a period in which the employee is unable to perform his or her regular or customary work because he or she is on family and medical leave if the employee:

(a) Files an application for benefits as required by rules adopted by the commissioner;

(b) Has met the eligibility requirements of RCW 50A.15.010 or the elective coverage requirements under RCW 50A.10.010;

(c) Consents to the disclosure of information or records deemed private and confidential under state law. Initial disclosure of this information and these records by another state agency to the department is solely for purposes related to the administration of this title. Further disclosure of this information or these records is subject to chapter 50A.25 RCW ~~((7))~~ and RCW 50A.05.020(3) ~~((7))~~ and ~~((RCW))~~ 50A.20.030;

(d) Provides his or her social security number;

(e) Provides a document authorizing the family member's or employee's health care provider, as applicable, to disclose the family member's or employee's health care information in the form of the certification of a serious health condition;

(f) Provides the employer from whom family and medical leave is to be taken with written notice of the employee's intention to take family leave in the same manner as an employee is required to provide notice in RCW 50A.15.030 and, in the employee's initial application for benefits, attests that written notice has been provided, unless notice has been waived by the employer under RCW 50A.15.030(3); and

(g) Provides documentation of a military exigency, if requested by the employer.

(2) An employee who is not in employment for an employer at the time of filing an application for benefits is

exempt from subsection (1)(f) and (g) of this section.

(3) Beginning July 1, 2022, and until the 12 months after the end of the state of emergency declared by the governor due to COVID-19, the department must ask the employee applicant whether their family or medical leave is related to the COVID-19 pandemic. Initial disclosure of this information is solely for purposes related to the administration of this title, including monitoring potential impacts on the solvency and stability of the family and medical leave insurance account created in RCW 50A.05.070. Further disclosure of this information or these records is subject to chapter 50A.25 RCW and RCW 50A.05.020(3) and 50A.20.030.

Sec. 7. RCW 50A.05.050 and 2017 3rd sp.s. c 5 s 86 are each amended to read as follows:

(1) Beginning December 1, 2020, and annually thereafter, the department shall report to the legislature on the entire program, including:

~~((1))~~ (a) Projected and actual program participation;

~~((2))~~ (b) Premium rates;

~~((3))~~ (c) Fund balances;

~~((4))~~ (d) Benefits paid;

~~((5))~~ (e) Demographic information on program participants, including income, gender, race, ethnicity, geographic distribution by county and legislative district, and employment sector;

~~((6))~~ (f) Costs of providing benefits;

~~((7))~~ (g) Elective coverage participation;

~~((8))~~ (h) Voluntary plan participation;

~~((9))~~ (i) Outreach efforts; and

~~((10))~~ (j) Small business assistance.

(2)(a) Beginning January 1, 2023, the office of actuarial services created in section 5 of this act must annually report, by November 1st, to the advisory committee in RCW 50A.05.030 on the experience and financial condition of the family and medical leave insurance account, and the lowest future premium rates necessary to maintain solvency of the family and medical leave insurance

account in the next four years while limiting fluctuation in premium rates.

(b) For calendar years 2023 through 2028, the annual reports in (a) of this subsection must be submitted to the appropriate committees of the legislature in compliance with RCW 43.01.036.

(3) Beginning October 1, 2023, the department must report quarterly to the advisory committee in RCW 50A.05.030 on premium collections, benefit payments, the family and medical leave insurance account balance, and other program expenditures.

NEW SECTION. Sec. 8. A new section is added to chapter 50A.05 RCW to read as follows:

(1) The office of financial management must enter into a contract with a public or private entity for actuarial services to provide a report to the appropriate committees of the legislature by October 1, 2022, on the following:

(a) The experience and financial condition of the family and medical leave insurance account created in RCW 50A.05.070;

(b) Any recommendations for options to modify the provisions of chapter 50A.10 RCW to maintain the long-term stability and solvency of the family and medical leave insurance account; and

(c) A comparison of the provisions of RCW 50A.10.030 with similar provisions in those states with both paid medical leave insurance and paid family leave insurance programs.

(2) The contract is exempt from the competitive procurement requirements in chapter 39.26 RCW.

(3) The report in this section must comply with RCW 43.01.036.

(4) This section expires December 31, 2023.

Sec. 9. RCW 44.44.040 and 2019 c 363 s 22 are each amended to read as follows:

The office of the state actuary shall have the following powers and duties:

(1) Perform all actuarial services for the department of retirement systems, including all studies required by law.

(2) Advise the legislature and the governor regarding pension benefit provisions, and funding policies and

investment policies of the state investment board.

(3) Consult with the legislature and the governor concerning determination of actuarial assumptions used by the department of retirement systems.

(4) Prepare a report, to be known as the actuarial fiscal note, on each pension bill introduced in the legislature which briefly explains the financial impact of the bill. The actuarial fiscal note shall include: (a) The statutorily required contribution for the biennium and the following twenty-five years; (b) the biennial cost of the increased benefits if these exceed the required contribution; and (c) any change in the present value of the unfunded accrued benefits. An actuarial fiscal note shall also be prepared for all amendments which are offered in committee or on the floor of the house of representatives or the senate to any pension bill. However, a majority of the members present may suspend the requirement for an actuarial fiscal note for amendments offered on the floor of the house of representatives or the senate.

(5) Provide such actuarial services to the legislature as may be requested from time to time.

(6) Provide staff and assistance to the committee established under RCW 41.04.276.

(7) Provide actuarial assistance to the law enforcement officers' and firefighters' plan 2 retirement board as provided in chapter 2, Laws of 2003. Reimbursement for services shall be made to the state actuary under RCW 39.34.130 and section 5(5), chapter 2, Laws of 2003.

(8) Provide actuarial assistance to the committee on advanced tuition payment pursuant to chapter 28B.95 RCW, including recommending a tuition unit price to the committee on advanced tuition payment to be used in the ensuing enrollment period. Reimbursement for services shall be made to the state actuary under RCW 39.34.130.

(9) Provide actuarial assistance to the long-term services and supports trust commission pursuant to chapter 50B.04 RCW. Reimbursement for services shall be made to the state actuary under RCW 39.34.130.

(10) Provide actuarial assistance, as requested by the employment security department or the office of financial management, to the employment security department related to the family and medical leave program in Title 50A RCW.

Sec. 10. RCW 50A.25.070 and 2020 c 125 s 8 are each amended to read as follows:

(1) The department may enter into data-sharing contracts and may disclose records and information deemed confidential to state or local government agencies under this chapter only if permitted under subsection (2) of this section and RCW 50A.25.090. A state or local government agency must need the records or information for an official purpose and must also provide:

(a) An application in writing to the department for the records or information containing a statement of the official purposes for which the state or local government agency needs the information or records and specifically identify the records or information sought from the department; and

(b) A written verification of the need for the specific information from the director, commissioner, chief executive, or other official of the requesting state or local government agency either on the application or on a separate document.

(2) The department may disclose information or records deemed confidential under this chapter to the following state or local government agencies:

(a) To the department of social and health services to identify child support obligations as defined in RCW 50A.15.080;

(b) To the department of revenue to determine potential tax liability or employer compliance with registration and licensing requirements;

(c) To the department of labor and industries to compare records or information to detect improper or fraudulent claims;

(d) To the office of financial management for the purpose of conducting periodic salary or fringe benefit studies pursuant to law or for the actuarial services created under this act;

(e) To the office of the state treasurer and any financial or banking institutions deemed necessary by the

office of the state treasurer and the department for the proper administration of funds;

(f) To the office of the attorney general for purposes of legal representation;

(g) To a county clerk for the purpose of RCW 9.94A.760 if requested by the county clerk's office;

(h) To the office of administrative hearings for the purpose of administering the administrative appeal process;

(i) To the department of enterprise services for the purpose of agency administration and operations; ~~((and))~~

(j) To the consolidated technology services agency for the purpose of enterprise technology support;

(k) To the office of the state actuary for the purpose of performing actuarial services to assess the financial stability and solvency of the family and medical leave program, and specifically the family and medical leave insurance account created in RCW 50A.05.070; and

(l) To the joint legislative audit and review committee, in accordance with RCW 44.28.110, for the purpose of conducting performance audits.

NEW SECTION. Sec. 11. (1)(a) A legislative task force on paid family and medical leave insurance premiums is established, with members as provided in this subsection.

(i) The president of the senate must appoint two members from each of the two largest caucuses of the senate.

(ii) The speaker of the house of representatives must appoint two members from each of the two largest caucuses of the house of representatives.

(iii) The voting members of the advisory committee in RCW 50A.05.030.

(iv) The governor shall appoint two members, one representing the governor's office and one representing the employment security department.

(b) The task force must choose its cochairs from among its legislative membership described in (a)(i) and (ii) of this subsection.

(2) The task force must review the reports submitted under RCW 50A.05.050 and make recommendations for any legislative modifications to the

provisions of chapter 50A.10 RCW to ensure the lowest future premium rates necessary to maintain solvency of the family and medical leave insurance account created in RCW 50A.05.070 in the next four years while limiting fluctuation in family and medical leave insurance premium rates.

(3)(a) Staff support for the task force must be provided by the senate committee services and the house of representatives office of program research.

(b) The staff must convene the initial meeting of the task force no later than November 4, 2022.

(4) Legislative members of the task force are reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members are not entitled to be reimbursed for travel expenses if they are elected officials or are participating on behalf of an employer, governmental entity, or other organization. Any reimbursement for other nonlegislative members is subject to chapter 43.03 RCW.

(5) The expenses of the committee must be paid jointly by the senate and the house of representatives. Task force expenditures are subject to approval by the senate facilities and operations committee and the house of representatives executive rules committee, or their successor committees.

(6) The task force shall issue a final report on its findings and recommendations to the governor and the appropriate committees of the legislature by December 30, 2022.

(7) This section expires January 4, 2023.

NEW SECTION. Sec. 12. (1) By October 1, 2024, the joint legislative audit and review committee, in consultation with the employment security department and the advisory committee in RCW 50A.05.030, must conduct a performance audit analyzing the implementation of the paid family and medical leave insurance program. The analysis must include, at a minimum, the following components:

(a) Evaluate the extent to which the department makes fair and timely decisions, and communicates with employers and workers in a timely, responsive, and accurate manner;

(b) Determine if current organization and service delivery models are the most efficient available;

(c) Determine whether current initiatives improve service delivery, meet the needs of current and future workers, and are measurable;

(d) Evaluate whether the department prepares financial information for the account under RCW 50A.05.070 in accordance with generally accepted accounting principles;

(e) Evaluate the solvency of the account under RCW 50A.05.070 taking into account insurance risks and standard accounting principles; and

(f) Make recommendations regarding administrative changes that should be made to improve efficiency while maintaining quality service to help address system costs and identify any needed legislative changes to implement these recommendations.

(2) The joint legislative audit and review committee may contract with an outside consulting firm with expertise in insurance or social insurance and insurance principles.

(3) The joint legislative audit and review committee must submit a final report on their findings to the appropriate committees of the legislature by October 1, 2024, and must submit a progress report by October 1, 2023.

(4) This section expires December 31, 2025.

NEW SECTION. **Sec. 13.** Section 8 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

Signed by Representatives Sells, Chair; Berry, Vice Chair; Hoff, Ranking Minority Member; Mosbrucker, Assistant Ranking Minority Member; Bronoske; Harris and Ortiz-Self.

Referred to Committee on Appropriations.

February 23, 2022

2SSB 5664 Prime Sponsor, Committee on Ways & Means: Concerning forensic competency

restoration programs. Reported by Committee on Civil Rights & Judiciary

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 10.77.010 and 2021 c 263 s 9 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) "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.

(3) "Community behavioral health agency" has the same meaning as "licensed or certified behavioral health agency" defined in RCW 71.24.025.

(4) "Conditional release" means modification of a court-ordered commitment, which may be revoked upon violation of any of its terms.

(5) 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.

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

(7) "Designated crisis responder" has the same meaning as provided in RCW 71.05.020.

(8) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter, pending evaluation.

(9) "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.

(10) "Developmental disability" means the condition as defined in RCW 71A.10.020(5).

(11) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order.

(12) "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.

(13) "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.

(14) "History of one or more violent acts" means violent acts committed during: (a) The ten-year period of time prior to the filing of criminal charges; plus (b) the amount of time equal to time spent during the ten-year period in a mental health facility or in confinement as a result of a criminal conviction.

(15) "Immediate family member" means a spouse, child, stepchild, parent, stepparent, grandparent, sibling, or domestic partner.

(16) "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.

(17) "Indigent" means any person who is financially unable to obtain counsel or other necessary expert or professional services without causing substantial hardship to the person or his or her family.

(18) "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.

(19) "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; (~~or~~)

(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.

(20) "Release" means legal termination of the court-ordered commitment under the provisions of this chapter.

(21) "Secretary" means the secretary of the department of social and health services or his or her designee.

(22) "Treatment" means any currently standardized medical or mental health procedure including medication.

(23) "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.

(24) "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.

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

Sec. 2. RCW 10.77.060 and 2021 c 263 s 5 are each amended to read as follows:

(1) (a) Whenever a defendant has pleaded not guilty by reason of insanity, or there is reason to doubt his or her competency, the court on its own motion or on the motion of any party shall either appoint or request the secretary to designate a qualified expert or professional person, who shall be approved by the prosecuting attorney, to evaluate and report upon the mental condition of the defendant.

(b) The signed order of the court shall serve as authority for the evaluator to

be given access to all records held by any mental health, medical, educational, or correctional facility that relate to the present or past mental, emotional, or physical condition of the defendant. If the court is advised by any party that the defendant may have a developmental disability, the evaluation must be performed by a developmental disabilities professional and the evaluator shall have access to records of the developmental disabilities administration of the department.

(c) The evaluator shall assess the defendant in a jail, detention facility, in the community, or in court to determine whether a period of inpatient commitment will be necessary to complete an accurate evaluation. If inpatient commitment is needed, the signed order of the court shall serve as authority for the evaluator to request the jail or detention facility to transport the defendant to a hospital or secure mental health facility for a period of commitment not to exceed fifteen days from the time of admission to the facility. Otherwise, the evaluator shall complete the evaluation.

(d) The court may commit the defendant for evaluation to a hospital or secure mental health facility without an assessment if: (i) The defendant is charged with murder in the first or second degree; (ii) the court finds that it is more likely than not that an evaluation in the jail will be inadequate to complete an accurate evaluation; or (iii) the court finds that an evaluation outside the jail setting is necessary for the health, safety, or welfare of the defendant. The court shall not order an initial inpatient evaluation for any purpose other than a competency evaluation.

(e) The order shall indicate whether, in the event the defendant is committed to a hospital or secure mental health facility for evaluation, all parties agree to waive the presence of the defendant or to the defendant's remote participation at a subsequent competency hearing or presentation of an agreed order if the recommendation of the evaluator is for continuation of the stay of criminal proceedings, or if the opinion of the evaluator is that the defendant remains incompetent and there is no remaining restoration period, and the hearing is held prior to the

expiration of the authorized commitment period.

(f) When a defendant is ordered to be evaluated under this subsection (1), or when a party or the court determines at first appearance that an order for evaluation under this subsection will be requested or ordered if charges are pursued, the court may delay granting bail until the defendant has been evaluated for competency or sanity and appears before the court. Following the evaluation, in determining bail the court shall consider: (i) Recommendations of the evaluator regarding the defendant's competency, sanity, or diminished capacity; (ii) whether the defendant has a recent history of one or more violent acts; (iii) whether the defendant has previously been acquitted by reason of insanity or found incompetent; (iv) whether it is reasonably likely the defendant will fail to appear for a future court hearing; and (v) whether the defendant is a threat to public safety.

(2) The court may direct that a qualified expert or professional person retained by or appointed for the defendant be permitted to witness the evaluation authorized by subsection (1) of this section, and that the defendant shall have access to all information obtained by the court appointed experts or professional persons. The defendant's expert or professional person shall have the right to file his or her own report following the guidelines of subsection (3) of this section. If the defendant is indigent, the court shall upon the request of the defendant assist him or her in obtaining an expert or professional person.

(3) The report of the evaluation shall include the following:

(a) A description of the nature of the evaluation;

(b) A diagnosis or description of the current mental status of the defendant;

(c) If the defendant suffers from a mental disease or defect, or has a developmental disability, an opinion as to competency;

(d) If the defendant has indicated his or her intention to rely on the defense of insanity pursuant to RCW 10.77.030, and an evaluation and report by an expert or professional person has been provided concluding that the defendant was criminally insane at the time of the

alleged offense, an opinion as to the defendant's sanity at the time of the act, and an opinion as to whether the defendant presents a substantial danger to other persons, or presents a substantial likelihood of committing criminal acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions, provided that no opinion shall be rendered under this subsection (3)(d) unless the evaluator or court determines that the defendant is competent to stand trial;

(e) When directed by the court, if an evaluation and report by an expert or professional person has been provided concluding that the defendant lacked the capacity at the time of the offense to form the mental state necessary to commit the charged offense, an opinion as to the capacity of the defendant to have a particular state of mind which is an element of the offense charged;

(f) An opinion as to whether the defendant should be evaluated by a designated crisis responder under chapter 71.05 RCW.

(4) The secretary may execute such agreements as appropriate and necessary to implement this section and may choose to designate more than one evaluator.

Sec. 3. RCW 10.77.068 and 2015 c 5 s 1 are each amended to read as follows:

(1)(a) The legislature establishes ~~((the following))~~ a performance ~~((targets and maximum time limits for the timeliness of the completion of accurate and reliable evaluations of competency to stand trial and admissions for inpatient restoration services related to competency to proceed or stand trial for adult criminal defendants))~~ target of seven days or fewer for the following services related to competency to stand trial, when access to the services is legally authorized:

(i) To extend an offer of admission to a defendant in pretrial custody for inpatient competency evaluation or inpatient competency restoration services;

(ii) To extend an offer of admission to a defendant ordered to be committed to a state hospital following dismissal of charges based on incompetency to stand trial under RCW 10.77.086; and

(iii) To complete a competency evaluation in jail and distribute the evaluation report.

(b) The legislature establishes a performance target of 21 days or fewer to complete a competency evaluation in the community and distribute the evaluation report.

(2) A maximum time limit of 14 days is established to complete the services specified in subsection (1)(a) of this section, subject to the limitations under subsection (9) of this section.

(3) The legislature recognizes that these targets may not be achievable in all cases ((without compromise to the quality of competency evaluation and restoration services)), but intends for the department to manage, allocate, and request appropriations for resources in order to meet these targets whenever possible without sacrificing the accuracy and quality of competency ((evaluations and restorations, and to otherwise make sustainable improvements and track performance related to the timeliness of competency services).

(i) For a state hospital to extend an offer of admission to a defendant in pretrial custody for legally authorized evaluation services related to competency, or to extend an offer of admission for legally authorized services following dismissal of charges based on incompetence to proceed or stand trial.

(A) A performance target of seven days or less; and

(B) A maximum time limit of fourteen days.

(ii) For a state hospital to extend an offer of admission to a defendant in pretrial custody for legally authorized inpatient restoration treatment related to competency.

(A) A performance target of seven days or less; and

(B) A maximum time limit of fourteen days.

(iii) For completion of a competency evaluation in jail and distribution of the evaluation report for a defendant in pretrial custody.

(A) A performance target of seven days or less; and

~~(B) A maximum time limit of fourteen days, plus an additional seven-day extension if needed for clinical reasons to complete the evaluation at the determination of the department.~~

~~(iv) For completion of a competency evaluation in the community and distribution of the evaluation report for a defendant who is released from custody and makes a reasonable effort to cooperate with the evaluation, a performance target of twenty-one days or less)) services.~~

~~((b)) The time periods measured in ((these performance targets and maximum time limits)) subsection (1) of this section shall run from the date on which the state hospital receives the court referral and charging documents, discovery, police reports, the names and addresses of the attorneys for the defendant and state or county, the name of the judge ordering the evaluation, information about the alleged crime, and criminal history information related to the defendant. ((The maximum time limits in (a) of this subsection shall be phased in over a one-year period beginning July 1, 2015, in a manner that results in measurable incremental progress toward meeting the time limits over the course of the year.~~

~~(e)) (4) It shall be a defense to an allegation that the department has exceeded the maximum time limits for completion of competency services described in ((a) of this)) subsection (2) of this section if the department can demonstrate by a preponderance of the evidence that the reason for exceeding the maximum time limits was outside of the department's control including, but not limited to, the following circumstances:~~

~~((i)) (a) Despite a timely request, the department has not received necessary medical ((clearance)) information regarding the current medical status of a defendant ((in pretrial custody for the purposes of admission to a state hospital));~~

~~((ii)) (b) The individual circumstances of the defendant make accurate completion of an evaluation of competency to ((proceed or)) stand trial dependent upon review of mental health, substance use disorder, or medical history information which is in the custody of a third party and cannot be immediately obtained by the~~

department (~~(. Completion of a competency evaluation)~~), provided that completion shall not be postponed for procurement of ((mental health, substance use disorder, or medical history)) information which is merely supplementary ((to the competency determination));

~~((iii))~~ (c) Additional time is needed for the defendant to no longer show active signs and symptoms of impairment related to substance use so that an accurate evaluation may be completed;

(d) The defendant is medically unavailable for competency evaluation or admission to a facility for competency restoration;

~~(e)~~ Completion of the referral ((is frustrated by lack of)) requires additional time to accommodate the availability or participation ((by)) of counsel, ((jail or)) court personnel, interpreters, or the defendant;

~~((iv) The department does not have access to appropriate private space to conduct a competency evaluation for a defendant in pretrial custody;~~

~~(v))~~ (f) The defendant asserts legal rights that result in a delay in the provision of competency services; or

~~((vi))~~ (g) An unusual spike in the receipt of evaluation referrals or in the number of defendants requiring restoration services has occurred, causing temporary delays until the unexpected excess demand for competency services can be resolved.

~~((2))~~ (5) The department shall provide written notice to the court when it will not be able to meet the maximum time limits under subsection (2) of this section and identify the reasons for the delay and provide a reasonable estimate of the time necessary to complete the competency service. Good cause for an extension for the additional time estimated by the department shall be presumed absent a written response from the court or a party received by the department within seven days.

(6) The department shall:

(a) Develop, document, and implement procedures to monitor the clinical status of defendants admitted to a state hospital for competency services that allow the state hospital to accomplish early discharge for defendants for whom clinical objectives have been achieved or

may be achieved before expiration of the commitment period;

(b) Investigate the extent to which patients admitted to a state hospital under this chapter overstay time periods authorized by law and take reasonable steps to limit the time of commitment to authorized periods; and

(c) Establish written standards for the productivity of forensic evaluators and utilize these standards to internally review the performance of forensic evaluators.

~~((3))~~ (7) Following any quarter in which a state hospital has failed to meet one or more of the performance targets or maximum time limits ((in)) under subsection (1) or (2) of this section ((after full implementation of the performance target or maximum time limit)), the department shall report to the executive and the legislature the extent of this deviation and describe any corrective action being taken to improve performance. This report ((must)) shall be made publicly available. An average may be used to determine timeliness under this subsection.

~~((4) Beginning December 1, 2013, the))~~ (8) The department shall report annually to the legislature and the executive on the timeliness of services related to competency to ((proceed or)) stand trial and the timeliness with which court referrals accompanied by charging documents, discovery, and criminal history information are provided to the department relative to the signature date of the court order. The report must be in a form that is accessible to the public and that breaks down performance by county.

~~((5))~~ (9) This section does not create any new entitlement or cause of action related to the timeliness of competency ((evaluations or admission for inpatient restoration)) to stand trial services ((related to competency to proceed or stand trial)), nor can it form the basis for contempt sanctions under chapter 7.21 RCW or a motion to dismiss criminal charges.

Sec. 4. RCW 10.77.086 and 2019 c 326 s 4 are each amended to read as follows:

(1)~~((a)(i))~~ If the defendant is charged with a felony and determined to be incompetent, until he or she has regained the competency necessary to understand the proceedings against him or

her and assist in his or her own defense, but in any event for a period of no longer than ~~((ninety))~~ 90 days, the court shall commit the defendant to the custody of the secretary for inpatient competency restoration ~~((Based))~~, or may alternatively order the defendant to receive outpatient competency restoration based on a recommendation from a forensic navigator and input from the parties ~~((, the court may order the defendant to receive inpatient competency restoration or outpatient competency restoration))~~.

~~((A))~~ (a) To be eligible for an order for outpatient competency restoration, a defendant must be clinically appropriate and be willing to:

~~((I))~~ (i) Adhere to medications or receive prescribed intramuscular medication; ~~(and~~

~~((II))~~ (ii) Abstain from alcohol and unprescribed drugs; and

(iii) Comply with urinalysis or breathalyzer monitoring if needed.

~~((B))~~ (b) If the court orders inpatient competency restoration, the department shall place the defendant in an appropriate facility of the department for competency restoration.

~~((C))~~ (c) If the court orders outpatient competency restoration, the court shall modify conditions of release as needed to authorize the department to place the person in approved housing, which may include access to supported housing, affiliated with a contracted outpatient competency restoration program. The department, in conjunction with the health care authority, must establish rules for conditions of participation in the outpatient competency restoration program, which must include the defendant being subject to medication management ~~((and))~~. The court may order regular urinalysis testing ~~((for defendants who have a current substance use disorder diagnosis))~~. The outpatient competency restoration program shall monitor the defendant during the defendant's placement in the program and report any noncompliance or significant changes with respect to the defendant to the department and, if applicable, the forensic navigator.

~~((D))~~ (d) If a defendant fails to comply with the restrictions of the outpatient restoration program such that

restoration is no longer appropriate in that setting or the defendant is no longer clinically appropriate for outpatient competency restoration, the ~~((department shall remove the defendant from the outpatient restoration program and place the defendant instead))~~ director of the outpatient competency restoration program shall notify the authority and the department of the need to terminate the outpatient competency restoration program and intent to request placement for the defendant in an appropriate facility of the department for inpatient competency restoration ~~((for no longer than the time allowed as if the defendant had been initially placed into inpatient competency restoration, in addition to reasonable time for transport to or from the facility))~~. The outpatient competency restoration program shall coordinate with the authority, the department, and any law enforcement personnel under (d)(i) of this subsection to ensure that the time period between termination and admission into the inpatient facility is as minimal as possible. The time period for inpatient competency restoration shall be the same as if the outpatient competency restoration had not occurred, starting from admission to the facility. The department shall obtain a placement for the defendant within seven days of the notice of intent to terminate the outpatient competency restoration program.

(i) The department may authorize a peace officer to detain the defendant into emergency custody for transport to a crisis stabilization unit, evaluation and treatment facility, emergency department of a local hospital, or triage facility for medical clearance, and may authorize the peace officer to detain the defendant for transport to the designated inpatient competency restoration facility. The signed outpatient competency restoration order of the court shall serve as authority for the detention of the defendant under this subsection. This subsection does not preclude voluntary transportation of the defendant to a facility for medical clearance or inpatient competency restoration, or authorize admission of the defendant into jail.

(ii) The department shall notify the court and parties of the ~~((change in placement))~~ defendant's admission for inpatient competency restoration before the close of the next judicial day. The

court shall schedule a hearing within five days to review the ~~((placement and))~~ conditions of release of the defendant and anticipated release from treatment and issue appropriate orders. ~~((The standard of proof shall be a preponderance of the evidence, and the court may in its discretion render its decision based on written submissions, live testimony, or remote testimony.~~

~~(b))~~ (e) The court may not issue an order for outpatient competency restoration unless the department certifies that there is an available appropriate outpatient competency restoration program that has adequate space for the person at the time the order is issued or the court places the defendant under the guidance and control of a professional person identified in the court order.

~~((ii) The ninety day period for competency restoration under this subsection (1) includes only the time the defendant is actually at the facility and is in addition to reasonable time for transport to or from the facility.~~

~~(b))~~ (2) For a defendant whose highest charge is a class C felony, or a class B felony that is not classified as violent under RCW 9.94A.030, the maximum time allowed for the initial felony competency restoration period ~~((of commitment for competency restoration))~~ is ~~((forty five))~~ 45 days. ~~((The forty five day period includes only the time the defendant is actually at the facility and is in addition to reasonable time for transport to or from the facility.~~

~~(e))~~ (3) If the court determines or the parties agree before the initial felony competency restoration period or at any subsequent stage of the proceedings that the defendant is unlikely to regain competency, the court may dismiss the charges without prejudice without ordering the defendant to undergo an initial or further period of competency restoration treatment, in which case the court shall order that the defendant be referred for evaluation for civil commitment in the manner provided in subsection ~~((4))~~ (5) of this section.

~~((2))~~ (4) On or before expiration of the initial felony competency restoration period ~~((of commitment under subsection (1) of this section))~~ the court shall conduct a hearing ~~((, at which it shall))~~ to determine whether ~~((or~~

~~not))~~ the defendant is ~~((incompetent. (3))~~ now competent to stand trial. If the court finds by a preponderance of the evidence that ~~((a))~~ the defendant ~~((charged with a felony))~~ is incompetent to stand trial, the court ~~((shall have the option of extending the))~~ may order ~~((of commitment or alternative treatment))~~ an extension of the competency restoration period for an additional period of ~~((ninety))~~ 90 days, but the court must at the same time ~~((of extension))~~ set a date for a ~~((prompt))~~ new hearing to determine the defendant's competency to stand trial before the expiration of ~~((the))~~ this second restoration period. The defendant, the defendant's attorney, ~~((or))~~ and the prosecutor ~~((has))~~ have the right to demand that the hearing be before a jury. No extension shall be ordered for a second or third felony competency restoration period ~~((as provided in subsection (4) of this section))~~ if the defendant's incompetence has been determined by the secretary to be solely the result of a developmental disability which is such that competence is not reasonably likely to be regained during an extension. ~~((The ninety day period includes only the time the defendant is actually at the facility and is in addition to reasonable time for transport to or from the facility.~~

(4) For persons charged with a felony, ~~at))~~

(5) At the hearing upon the expiration of the second felony competency restoration period, or at the end of the first felony competency restoration period ~~((in the case of a))~~ if the defendant ~~((with a developmental disability))~~ is ineligible for a second or third competency restoration period under subsection (4) of this section, if the jury or court finds that the defendant is incompetent ~~((, or if the court or jury at any stage finds that the defendant is incompetent and the court determines that the defendant is unlikely to regain competency, the charges shall be dismissed))~~ to stand trial, the court shall dismiss the charges without prejudice ~~((, and ((the court shall))~~ order the defendant to be committed to a state hospital ~~((as defined in RCW 72.23.010))~~ for up to ~~((seventy two))~~ 120 hours if the defendant has not undergone competency restoration services and up to 72 hours if the defendant engaged in competency restoration services starting from admission to the facility, excluding

Saturdays, Sundays, and holidays, for evaluation for the purpose of filing a civil commitment petition under chapter 71.05 RCW. ~~((The criminal charges))~~ However, the court shall not ~~((be dismissed))~~ dismiss the charges if the court or jury finds that: (a) The defendant (i) is a substantial danger to other persons; or (ii) presents a substantial likelihood of committing criminal acts jeopardizing public safety or security; and (b) there is a substantial probability that the defendant will regain competency within a reasonable period of time. ~~((In the event that))~~ If the court or jury makes such a finding, the court may extend the period of commitment for up to an additional six months. ~~((The six-month))~~

(6) Any period of competency restoration treatment under this section includes only the time the defendant is actually at the facility and is in addition to reasonable time for transport to or from the facility.

Sec. 5. RCW 10.77.088 and 2020 c 18 s 4 are each amended to read as follows:

(1) If the defendant is charged with a nonfelony crime which is a serious offense as identified in RCW 10.77.092 and found by the court to be not competent, then the court:

(a) Shall dismiss the proceedings without prejudice and detain the defendant for sufficient time to allow the designated crisis responder to evaluate the defendant and consider initial detention proceedings under chapter 71.05 RCW, unless the prosecutor objects to the dismissal and provides notice of a motion for an order for nonfelony competency restoration treatment, in which case the court shall schedule a hearing within seven days ~~((to determine whether to enter an order of competency restoration))~~.

(b) At the hearing, the prosecuting attorney must establish that there is a compelling state interest to order nonfelony competency restoration treatment for the defendant. The court may consider prior criminal history, prior history in treatment, prior history of violence, the quality and severity of the pending charges, any history that suggests whether ~~((or not))~~ nonfelony competency restoration treatment is likely to be successful, in addition to the factors listed under RCW 10.77.092. If the prosecuting attorney proves by a

preponderance of the evidence that there is a compelling state interest in ordering nonfelony competency restoration treatment, then the court shall issue an order ~~((competency restoration))~~ in accordance with subsection (2) ~~((a))~~ of this section.

(2) ~~((a))~~ If a court finds pursuant to subsection (1)(b) of this section that there is a compelling state interest in pursuing nonfelony competency restoration treatment, ~~((then))~~ the court shall commit the defendant to the custody of the secretary for inpatient competency restoration ~~((Based))~~, or may alternatively order the defendant to receive outpatient competency restoration based on a recommendation from a forensic navigator and input from the parties ~~((, the court may order the defendant to receive inpatient competency restoration or outpatient competency restoration))~~.

~~((i))~~ (a) To be eligible for an order for outpatient competency restoration, a defendant must be clinically appropriate and be willing to:

~~((A))~~ (i) Adhere to medications or receive prescribed intramuscular medication; ~~((and~~

~~((B))~~ (ii) Abstain from alcohol and unprescribed drugs; and

(iii) Comply with urinalysis or breathalyzer monitoring if needed.

~~((ii))~~ (b) If the court orders inpatient competency restoration, the department shall place the defendant in an appropriate facility of the department for competency restoration under ~~((b))~~ subsection (3) of this ~~((subsection))~~ section.

~~((iii))~~ (c) If the court orders outpatient competency restoration, the court shall modify conditions of release as needed to authorize the department to place the person in approved housing, which may include access to supported housing, affiliated with a contracted outpatient competency restoration program. The department, in conjunction with the health care authority, must establish rules for conditions of participation in the outpatient competency restoration program, which must include the defendant being subject to medication management ~~((and))~~. The court may order regular urinalysis testing ~~((for defendants who have a current substance use disorder~~

~~diagnosis~~). The outpatient competency restoration program shall monitor the defendant during the defendant's placement in the program and report any noncompliance or significant changes with respect to the defendant to the department and, if applicable, the forensic navigator.

~~((iv))~~ (d) If a defendant fails to comply with the restrictions of the outpatient competency restoration program such that restoration is no longer appropriate in that setting or the defendant is no longer clinically appropriate for outpatient competency restoration, the ~~((department shall remove the defendant from the outpatient restoration program. The department shall place the defendant instead))~~ director of the outpatient competency restoration program shall notify the authority and the department of the need to terminate the outpatient competency restoration program and intent to request placement for the defendant in an appropriate facility of the department for inpatient competency restoration ~~((for no longer than twenty-nine days regardless of any time spent in outpatient competency restoration, in addition to reasonable time for transport to or from the facility))~~. The outpatient competency restoration program shall coordinate with the authority, the department, and any law enforcement personnel under (d)(i) of this subsection to ensure that the time period between termination and admission into the inpatient facility is as minimal as possible. The time period for inpatient competency restoration shall be the same as if the outpatient competency restoration had not occurred, starting from admission to the facility. The department shall obtain a placement for the defendant within seven days of the notice of intent to terminate of the outpatient competency restoration program.

(i) The department may authorize a peace officer to detain the defendant into emergency custody for transport to a crisis stabilization unit, evaluation and treatment facility, emergency department of a local hospital, or triage facility for medical clearance, and may authorize the peace officer to detain the defendant for transport to the designated inpatient competency restoration facility. The signed outpatient competency restoration order of the court shall serve as authority for the

detention of the defendant under this subsection. This subsection does not preclude voluntary transportation of the defendant to a facility for medical clearance or inpatient competency restoration, or authorize admission of the defendant into jail.

(ii) The department shall notify the court and parties of the ~~((change in placement))~~ defendant's admission for inpatient competency restoration before the close of the next judicial day. The court shall schedule a hearing within five days to review the ~~((placement and))~~ conditions of release of the defendant and anticipated release from treatment and issue appropriate orders. ~~((The standard of proof shall be a preponderance of the evidence, and the court may in its discretion render its decision based on written submissions, live testimony, or remote testimony.~~

~~((v))~~ (e) The court may not issue an order for outpatient competency restoration unless the department certifies that there is an available appropriate outpatient restoration program that has adequate space for the person at the time the order is issued or the court places the defendant under the guidance and control of a professional person identified in the court order.

~~((b))~~ (3) The placement under ~~((a))~~ subsection (2) of this ~~((subsection))~~ section shall not exceed ~~((twenty-nine))~~ 29 days if the defendant is ordered to receive inpatient competency restoration, ~~((or))~~ and shall not exceed ~~((ninety))~~ 90 days if the defendant is ordered to receive outpatient competency restoration. The court may order any combination of this subsection ~~((, not to exceed ninety days. This period must be considered to include only the time the defendant is actually at the facility and shall be in addition to reasonable time for transport to or from the facility))~~.

~~((c))~~ (4) If the court has determined or the parties agree that the defendant is unlikely to regain competency, the court may dismiss the charges without prejudice without ordering the defendant to undergo nonfelony competency restoration treatment, in which case the court shall order that the defendant be referred for evaluation for civil commitment in the manner provided in ~~((d))~~ subsection (5) of this ~~((subsection))~~ section.

~~((d)(i))~~ (5)(a) If the proceedings are dismissed under RCW 10.77.084 and the defendant was on conditional release at the time of dismissal, the court shall order the designated crisis responder within that county to evaluate the defendant pursuant to chapter 71.05 RCW. The evaluation may be conducted in any location chosen by the professional.

~~((ii))~~ (b) If the defendant was in custody and not on conditional release at the time of dismissal, the defendant shall be detained and sent to an evaluation and treatment facility for up to ~~((seventy-two))~~ 120 hours if the defendant has not undergone competency restoration services and up to 72 hours if the defendant engaged in competency restoration services, excluding Saturdays, Sundays, and holidays, for evaluation for purposes of filing a petition under chapter 71.05 RCW. The ~~((seventy-two))~~ 120-hour or 72-hour period shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the ~~((seventy-two))~~ 120-hour or 72-hour period.

~~((3))~~ (6) If the defendant is charged with a nonfelony crime that is not a serious offense as defined in RCW 10.77.092 and found by the court to be not competent, the court may stay or dismiss proceedings and detain the defendant for sufficient time to allow the designated crisis responder to evaluate the defendant and consider initial detention proceedings under chapter 71.05 RCW. The court must give notice to all parties at least ~~((twenty-four))~~ 24 hours before the dismissal of any proceeding under this subsection, and provide an opportunity for a hearing on whether to dismiss the proceedings.

~~((4))~~ (7) If at any time the court dismisses charges under subsections (1) through ~~((3))~~ (6) of this section, the court shall make a finding as to whether the defendant has a history of one or more violent acts. If the court so finds, the defendant is barred from the possession of firearms until a court restores his or her right to possess a firearm under RCW 9.41.047. The court shall state to the defendant and provide written notice that the defendant is barred from the possession of firearms and that the prohibition remains in effect until a court restores his or her

right to possess a firearm under RCW 9.41.047.

(8) Any period of competency restoration treatment under this section includes only the time the defendant is actually at the facility and is in addition to reasonable time for transport to or from the facility.

Sec. 6. RCW 10.77.220 and 2015 1st sp.s. c 7 s 8 are each amended to read as follows:

(1) No person who is criminally insane confined pursuant to this chapter shall be incarcerated in a state correctional institution or facility. This section does not apply to confinement in a mental health facility located wholly within a correctional institution. Confinement of a person who is criminally insane in a county jail or other local facility while awaiting either placement in a treatment program or a court hearing pursuant to this chapter is permitted for no more than seven days.

(2) In the event that a person remains in jail 21 days after service on the department of a court order to transport the person to a facility designated by the department for inpatient competency restoration treatment, the department shall upon the request of any party perform a competency to stand trial status check at reasonable intervals to determine if the circumstances of the person have changed such that the court should authorize an updated competency evaluation, and provide a status update to the parties and the court.

Sec. 7. RCW 10.77.250 and 1987 c 75 s 1 are each amended to read as follows:

~~((The))~~ (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.

NEW SECTION. Sec. 8. A new section is added to chapter 10.77 RCW to read as follows:

No officer of a public or private agency, nor the superintendent, professional person in charge, his or her professional designee, or attending staff of any such agency, nor any public official performing functions necessary to the administration of this chapter, nor peace officer responsible for detaining a person pursuant to this chapter, nor the state, a unit of local government, an evaluation and treatment facility, a secure withdrawal management and stabilization facility, or an approved substance use disorder treatment program shall be civilly or criminally liable for performing duties pursuant to this chapter with regard to the decision of whether to detain a person for medical clearance or treatment, provided that such duties were performed in good faith and without gross negligence.

NEW SECTION. **Sec. 9.** A new section is added to chapter 10.77 RCW to read as follows:

The authority shall report annually to the governor and relevant committees of the legislature, beginning November 1, 2022, describing:

(1) How many individuals are being served by outpatient competency restoration programs and in what locations;

(2) The length of stay of individuals in outpatient competency restoration programs;

(3) The number of individuals who are revoked from an outpatient competency restoration program into inpatient treatment, and the outcomes of other individuals, if any, whose participation in an outpatient competency restoration program were terminated before the completion of the program; and

(4) For individuals who were revoked from an outpatient competency restoration program into an inpatient competency restoration program, how many days the individuals spent in outpatient competency restoration treatment and inpatient competency restoration treatment, and whether the restoration programs resulted in a finding of competent to stand trial or another outcome."

Correct the title.

Signed by Representatives Hansen, Chair; Simmons, Vice Chair; Abbarno; Davis; Entenman; Goodman; Kirby; Orwall; Peterson; Thai; Valdez; Walen and Ybarra.

MINORITY recommendation: Without recommendation. Signed by Representatives Walsh, Ranking Minority Member; Gilday, Assistant Ranking Minority Member; Graham, Assistant Ranking Minority Member and Klippert.

Referred to Committee on Appropriations.

February 23, 2022

SSB 5701 Prime Sponsor, Committee on Ways & Means: Determining monthly wages for workers' compensation. Reported by Committee on Labor & Workplace Standards

MAJORITY recommendation: Do pass. Signed by Representatives Sells, Chair; Berry, Vice Chair; Hoff, Ranking Minority Member; Bronoske and Ortiz-Self.

MINORITY recommendation: Without recommendation. Signed by Representatives Mosbrucker, Assistant Ranking Minority Member and Harris.

Referred to Committee on Rules for second reading.

February 23, 2022

SB 5715 Prime Sponsor, Senator Wellman: Modifying the definition of broadband or broadband service. Reported by Committee on Community & Economic Development

MAJORITY recommendation: Do pass. Signed by Representatives Ryu, Chair; Paul, Vice Chair; Boehnke, Ranking Minority Member; Chase, Assistant Ranking Minority Member; Corry; Donaghy; Frame; Jacobsen; Johnson, J.; Rule and Taylor.

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

Referred to Committee on Rules for second reading.

February 22, 2022

SSB 5722 Prime Sponsor, Committee on Environment, Energy & Technology: Reducing greenhouse gas emissions in buildings. Reported by Committee on Environment & Energy

MAJORITY recommendation: Do pass. Signed by Representatives Fitzgibbon, Chair; Duerr, Vice Chair;

Berry; Fey; Harris-Talley; Ramel; Shewmake and Slatter.

MINORITY recommendation: Do not pass. Signed by Representatives Dye, Ranking Minority Member; Klicker, Assistant Ranking Minority Member; Abbarno; Boehnke and Goehner.

Referred to Committee on Appropriations.

February 23, 2022

2SSB 5746 Prime Sponsor, Committee on Ways & Means: Concerning drought preparedness, response, and funding. Reported by Committee on Rural Development, Agriculture & Natural Resources

MAJORITY recommendation: Do pass. Signed by Representatives Chapman, Chair; Shewmake, Vice Chair; Chandler, Ranking Minority Member; Dent, Assistant Ranking Minority Member; Fitzgibbon; Klicker; Kloba; Kretz; Lekanoff; McEntire; Orcutt; Schmick and Springer.

MINORITY recommendation: Without recommendation. Signed by Representatives Morgan and Ramos.

Referred to Committee on Appropriations.

February 22, 2022

SSB 5749 Prime Sponsor, Committee on Housing & Local Government: Concerning rent payments made by residential and manufactured housing community tenants. Reported by Committee on Housing, Human Services & Veterans

MAJORITY recommendation: Do pass. Signed by Representatives Peterson, Chair; Taylor, Vice Chair; Gilday, Ranking Minority Member; Barkis, Assistant Ranking Minority Member; Bateman; Chopp; Donaghy; Jacobsen and Leavitt.

Referred to Committee on Rules for second reading.

February 23, 2022

SSB 5753 Prime Sponsor, Committee on Health & Long Term Care: Increasing board and commission capacities. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 18.32.0351 and 2007 c 269 s 16 are each amended to read as follows:

The Washington state dental quality assurance commission is established, consisting of ~~((sixteen))~~ seventeen members each appointed by the governor to a four-year term. No member may serve more than two consecutive full terms. ~~((In appointing the initial members of the commission, it is the intent of the legislature that, to the extent possible, members of the previous boards and committees regulating these professions be appointed to the commission.))~~ Members of the commission hold office until their successors are appointed. ~~((The governor may appoint members of the initial commission to staggered terms of from one to four years. Thereafter, all))~~ All members shall be appointed to full four-year terms. Twelve members of the commission must be dentists, two members must be expanded function dental auxiliaries licensed under chapter 18.260 RCW, and ~~((two))~~ three members must be public members.

Sec. 2. RCW 18.32.0355 and 1994 sp.s. c 9 s 206 are each amended to read as follows:

Members must be ~~((citizens of the United States and))~~ residents of this state. Dentist members must be licensed dentists in the active practice of dentistry for a period of five years before appointment. Of the twelve dentists appointed to the commission, at least four must reside and engage in the active practice of dentistry east of the summit of the Cascade mountain range. Public members of the commission may not be a member of any other health care licensing board or commission, or have a fiduciary obligation to a facility rendering health services regulated by the commission, or have a material or financial interest in the rendering of health services regulated by the commission.

Sec. 3. RCW 18.52.040 and 2011 c 336 s 488 are each amended to read as follows:

(1) The state board of nursing home administrators shall consist of ~~((nine))~~ eleven members appointed by the governor. ~~((Four))~~ Six members shall be persons licensed under this chapter who have at least four years actual experience in the administration of a licensed nursing home in this state ~~((immediately preceding appointment to the board and who are not employed by the state or federal government))~~. At least one, but not more than two, of the six administrator

members shall be an administrator of an assisted living facility or a continuing care retirement community.

~~((Four))~~ (2) Three members shall be representatives of ~~((the health care professions))~~ one or more of the following:

(a) Licensed health care professionals providing medical or nursing services in nursing homes who are privately or self-employed; ~~((or shall be persons employed by))~~

(b) Faculty or administrators of educational institutions who have special knowledge ~~((or expertise in the field of health care administration, health care education or long-term care or both, or care of the aged and chronically ill.~~

~~One member))~~ of health care education, long-term care, or care of the aged or elderly; or

(c) Persons currently employed in areas related to the long-term care field including, but not limited to, pharmacy, home health, adult family homes, or therapy services.

(3) Two members shall be ~~((a))~~ members of the health care consuming public who are residents of ~~((a))~~ nursing homes or ~~((a))~~ family members of ~~((a resident))~~ nursing home residents or ~~((a))~~ persons eligible for medicare. No member who is a nonadministrator representative shall have any direct or family financial interest in nursing homes while serving as a member of the board. The governor shall consult with and seek the recommendations of the appropriate statewide business and professional organizations and societies primarily concerned with long-term health care facilities in the course of considering his or her appointments to the board. ((Board members currently serving shall continue to serve until the expiration of their appointments.))

Sec. 4. RCW 18.52.050 and 1992 c 53 s 5 are each amended to read as follows:

Members of the board shall be ~~((citizens of the United States and))~~ residents of this state. All administrator members of the board shall be holders of licenses under this chapter. The terms of all members shall be five years. Any board member may be removed for just cause including a finding of fact of unprofessional conduct

or impaired practice. The governor may appoint a new member to fill any vacancy on the board for the remainder of the unexpired term. No board member may serve more than two consecutive full terms ~~((whether full or partial))~~. Board members shall serve until their successors are appointed. Board members shall be compensated in accordance with RCW ~~((43.03.240))~~ 43.03.265 and shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. The board is designated as a class five group for purposes of chapter 43.03 RCW. The board may elect annually a chair and vice chair to direct the meetings of the board. The board shall meet at least four times each year and may hold additional meetings as called by the secretary or the chair. A majority of the board members appointed and serving constitutes a quorum for the transaction of board business. The affirmative vote of a majority of a quorum of the board is required to carry a motion or resolution, to adopt a rule, or to pass a measure.

Sec. 5. RCW 18.74.020 and 2007 c 98 s 2 are each amended to read as follows:

The state board of physical therapy is hereby created. The board shall consist of ~~((six))~~ seven members who shall be appointed by the governor. ~~((Of the initial appointments, two shall be appointed for a term of two years, two for a term of three years, and one for a term of four years. Thereafter, all appointments shall be for terms of four years. Four))~~ Five members of the board shall be physical therapists licensed under this chapter and residing in this state, shall have not less than five years' experience in the practice of physical therapy, and shall be actively engaged in practice within two years of appointment. One member shall be a physical therapist assistant licensed under this chapter and residing in this state, shall not have less than five years' experience in the practice of physical therapy, and shall be actively engaged in practice within two years of appointment. The ~~((sixth))~~ seventh member shall be appointed from the public at large, shall have an interest in the rights of consumers of health services, and shall not be or have been a member of any other licensing board, a licensee of any health occupation board, an employee of any health facility nor derive his or her primary livelihood from the provision of health services at any level of responsibility. In the event that a

member of the board for any reason cannot complete his or her term of office, another appointment shall be made by the governor in accordance with the procedure stated in this section to fill the remainder of the term. No member may serve for more than two (~~successive~~) consecutive full four-year terms.

The secretary of health shall furnish such secretarial, clerical, and other assistance as the board may require. Each member of the board shall, in addition to travel expenses in accordance with RCW 43.03.050 and 43.03.060, be compensated in accordance with RCW (~~43.03.240~~) 43.03.265. The board is designated as a class five group for purposes of chapter 43.03 RCW.

Sec. 6. RCW 18.74.027 and 1983 c 116 s 5 are each amended to read as follows:

The board shall elect from its members a chairperson and vice chairperson-secretary, who shall serve for one year and until their successors are elected. The board shall meet at least once a year and upon the call of the chairperson at such times and places as the chairperson designates. (~~Three members constitute a quorum of the full board for the transaction of any business.~~) A majority of the board members appointed and serving constitutes a quorum for the transaction of board business. The affirmative vote of a majority of a quorum of the board is required to carry a motion or resolution, to adopt a rule, or to pass a measure. Meetings of the board shall be open and public, except the board may hold executive sessions to the extent permitted by chapter 42.30 RCW.

Sec. 7. RCW 18.92.021 and 2007 c 235 s 3 are each amended to read as follows:

(1) There is created a Washington state veterinary board of governors (~~consisting~~) reflecting the diverse practice of animal medicine, including large animal, small animal, and specialty practice, as well as diverse types of employment and practice ownership including sole proprietorships, partnerships, and corporations. The board shall consist of (~~seven~~) nine members, (~~five~~) six of whom shall be licensed veterinarians, one of whom shall be a licensed veterinary technician (~~trained in both large and small animal medicine~~), one of whom shall be a licensed veterinarian or a licensed

veterinary technician, and one of whom shall be a (~~lay~~) member of the public.

(2)(a) The licensed members shall be appointed by the governor. At the time of their appointment the licensed members of the board must be actual residents of the state in active practice as licensed practitioners of veterinary medicine, surgery, and dentistry, or employed as a licensed veterinary technician, as applicable(~~, and must be citizens of the United States~~). Not more than (~~one~~) two licensed veterinary members shall be from the same congressional district. The board shall not be deemed to be unlawfully constituted and a member of the board shall not be deemed ineligible to serve the remainder of the member's unexpired term on the board solely by reason of the establishment of new or revised boundaries for congressional districts.

(b) The terms of the (~~first licensed~~) members (~~of the board~~) shall be (~~as follows: One member for five, four, three, two, and one years respectively. Thereafter the terms shall be for~~) five years and until their successors are appointed and qualified.

(c) (~~The lay member shall be appointed by the governor for a five year term and until the lay member's successor is appointed.~~

~~(d))~~ A member may be appointed to serve (~~a second term, if that term does not run consecutively~~) two consecutive full terms.

(~~(e)~~) (d) Vacancies (~~in~~) on the board shall be filled by the governor, the appointee to hold office for the remainder of the unexpired term.

(3) (~~The licensed veterinary technician member is a nonvoting member with respect to board decisions related to the discipline of a veterinarian involving standard of care.~~

~~(4))~~ Officers of the board shall be a chair and a (~~secretary treasurer~~) vice chair to be chosen by the members of the board from among its members.

(~~(5)~~) Four members of the board shall constitute a quorum at meetings of the board. (4) A majority of the board members appointed and serving constitutes a quorum for the transaction of board business. The affirmative vote of a majority of a quorum of the board is

required to carry a motion or resolution, to adopt a rule, or to pass a measure.

Sec. 8. RCW 18.92.040 and 1991 c 3 s 240 are each amended to read as follows:

Each member of the board shall be compensated in accordance with RCW ~~((43.70.250))~~ 43.03.265 and shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060. The board is designated as a class five group for purposes of chapter 43.03 RCW. No expense may be incurred by members of the board except in connection with board meetings without prior approval of the secretary.

Sec. 9. RCW 18.108.020 and 1991 c 3 s 253 are each amended to read as follows:

The Washington state board of massage is ~~((hereby))~~ created. The board shall consist of ~~((four))~~ seven members who shall be appointed by the governor for a term of four years each. ~~((Members))~~ All members shall be residents of this state ~~((and shall have not less than three years experience in the practice of massage immediately preceding their appointment and shall be licensed under this chapter and actively engaged in the practice of massage during their incumbency.~~

~~In addition to the members specified in this section, the governor shall appoint a consumer member of the board, who shall serve for a term of four years. The consumer member of the board shall be an individual who does not derive his or her livelihood by providing health care services or massage therapy and is not a licensed health professional. The consumer member shall not be an employee of the state nor a present or former member of another licensing board). Five members shall be massage therapists licensed under this chapter with at least three years' experience in the practice of massage immediately preceding their appointment and shall at all times during their terms remain licensed massage therapists.~~

One member shall be a consumer whose occupation does not include the administration of health activities or the provision of health services and who has no material financial interest in the provision of health care services.

One member shall be a massage educator or massage school owner with at least three years' experience in the teaching or administration of direct student

learning of the practice of massage. The educator or school owner member is not required to be a licensed massage therapist. The member shall recuse themselves from any board deliberations or decision making involving the school or educational program with which the member is professionally affiliated.

In the event that a member cannot complete ~~((his or her))~~ their term of office, another appointment shall be made by the governor in accordance with the procedures stated in this section to fill the remainder of the term. No member may serve more than two successive full terms ~~((whether full or partial))~~. The governor may remove any member of the board for neglect of duty, incompetence, or unprofessional or disorderly conduct as determined under chapter 18.130 RCW.

Each member of the board shall be compensated in accordance with RCW ~~((43.03.240))~~ 43.03.265. The board is designated as a class five group for purposes of chapter 43.03 RCW. Members shall be reimbursed for travel expenses incurred in the actual performance of their duties, as provided in RCW 43.03.050 and 43.03.060.

The board may annually elect a chairperson to direct the meetings of the board. The board shall meet as called by the chairperson or the secretary. ~~((Three members of the board shall constitute a quorum of the board.))~~ A majority of the board members appointed and serving constitutes a quorum for the transaction of board business. The affirmative vote of a majority of a quorum of the board is required to carry a motion or resolution, to adopt a rule, or to pass a measure.

Sec. 10. RCW 18.83.035 and 1989 c 226 s 1 are each amended to read as follows:

There is created the examining board of psychology which shall examine the qualifications of applicants for licensing. The board shall consist of ~~((seven))~~ nine psychologists and two public members, all appointed by the governor. The public members shall not be and have never been psychologists or in training to be psychologists; they may not have any household member who is a psychologist or in training to be a psychologist; they may not participate or ever have participated in a commercial or professional field related to psychology, nor have a household member who has so participated; and they may not have had within two years before

appointment a substantial financial interest in a person regulated by the board. Each psychologist member of the board shall ~~((be a citizen of the United States who has))~~ have actively practiced psychology in the state of Washington for at least three years immediately preceding appointment and who is licensed under this chapter. Board members shall be appointed for a term of five years, except that the terms of the existing appointees shall be adjusted by the governor so that no more than two members' terms expire each year with all subsequent appointments for a five-year term. Upon the death, resignation, or removal of a member, the governor shall appoint a successor to serve for the unexpired term. The board shall elect one of its members to serve as chairperson.

Sec. 11. RCW 18.83.045 and 1991 c 3 s 195 are each amended to read as follows:

The board shall meet at least once each year and at such other times as the board deems appropriate to properly discharge its duties. All meetings shall be held in Olympia, Washington, or such other places as may be designated by the secretary. Five members of the board shall constitute a quorum, except that oral examinations may be conducted with only three psychologist members. A majority of the board members appointed and serving constitutes a quorum for the transaction of board business. The affirmative vote of a majority of a quorum of the board is required to carry a motion or resolution, to adopt a rule, or to pass a measure.

Sec. 12. RCW 18.83.051 and 1984 c 287 s 48 are each amended to read as follows:

Each member of the board shall be compensated in accordance with RCW ~~((43.03.240))~~ 43.03.265 and in addition thereto shall be reimbursed for travel expenses incurred in carrying out the duties of the board in accordance with RCW 43.03.050 and 43.03.060. The board is designated as a class five group for purposes of chapter 43.03 RCW.

Sec. 13. RCW 18.64.001 and 2013 c 19 s 3 are each amended to read as follows:

There shall be a state pharmacy quality assurance commission consisting of fifteen members, to be appointed by the governor by and with the advice and consent of the senate. Ten of the members shall be designated as pharmacist members, four of the members shall be designated a public member, and one member shall be a pharmacy technician.

Each pharmacist member shall be a ~~((citizen of the United States and a))~~ resident of this state, and at the time of his or her appointment shall have been a duly registered pharmacist under the laws of this state for a period of at least five consecutive years immediately preceding his or her appointment and shall at all times during his or her incumbency continue to be a duly licensed pharmacist: PROVIDED, That subject to the availability of qualified candidates the governor shall appoint pharmacist members representative of the areas of practice and geographically representative of the state of Washington.

The public member shall be a ~~((citizen of the United States and a))~~ resident of this state. The public member shall be appointed from the public at large, but shall not be affiliated with any aspect of pharmacy.

Members of the commission shall hold office for a term of four years, and the terms shall be staggered so that the terms of office of not more than two members will expire simultaneously on the third Monday in January of each year.

No person who has been appointed to and served for two four year terms shall be eligible for appointment to the commission.

Each member shall qualify by taking the usual oath of a state officer, which shall be filed with the secretary of state, and each member shall hold office for the term of his or her appointment and until his or her successor is appointed and qualified.

In case of the resignation or disqualification of a member, or a vacancy occurring from any cause, the governor shall appoint a successor for the unexpired term.

Sec. 14. RCW 18.64.003 and 2013 c 19 s 4 are each amended to read as follows:

Members of the commission shall meet at such places and times as it shall determine and as often as necessary to discharge the duties imposed upon it. The commission shall elect a chairperson and a vice chairperson from among its members. A majority of the commission members appointed and serving constitutes a quorum for the transaction of commission business. The affirmative vote of a majority of a quorum of the commission is required to carry a motion

or resolution, to adopt a rule, or to pass a measure. The commission is designated as a class five group for purposes of chapter 43.03 RCW. Each member shall be compensated in accordance with RCW ((43.03.240)) 43.03.265 and shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

Sec. 15. RCW 18.64.005 and 2013 c 19 s 5 are each amended to read as follows:

The commission shall:

(1) Regulate the practice of pharmacy and enforce all laws placed under its jurisdiction;

(2) Prepare or determine the nature of, and supervise the grading of, examinations for applicants for pharmacists' licenses;

(3) Establish the qualifications for licensure of pharmacists or pharmacy interns;

(4) Conduct hearings for the revocation or suspension of licenses, permits, registrations, certificates, or any other authority to practice granted by the commission, which hearings may also be conducted by an administrative law judge appointed under chapter 34.12 RCW or a presiding officer designated by the commission. The commission may authorize the secretary, or their designee, to serve as the presiding officer for any disciplinary proceedings of the commission authorized under this chapter. The presiding officer shall not vote on or make any final decision in cases pertaining to standards of practice or where clinical expertise is necessary. All functions performed by the presiding officer shall be subject to chapter 34.05 RCW;

(5) Issue subpoenas and administer oaths in connection with any hearing, or disciplinary proceeding held under this chapter or any other chapter assigned to the commission;

(6) Assist the regularly constituted enforcement agencies of this state in enforcing all laws pertaining to drugs, controlled substances, and the practice of pharmacy, or any other laws or rules under its jurisdiction;

(7) Promulgate rules for the dispensing, distribution, wholesaling, and manufacturing of drugs and devices and the practice of pharmacy for the protection and promotion of the public

health, safety, and welfare. Violation of any such rules shall constitute grounds for refusal, suspension, or revocation of licenses or any other authority to practice issued by the commission;

(8) Adopt rules establishing and governing continuing education requirements for pharmacists and other licensees applying for renewal of licenses under this chapter;

(9) Be immune, collectively and individually, from suit in any action, civil or criminal, based upon any disciplinary proceedings or other official acts performed as members of the commission. Such immunity shall apply to employees of the department when acting in the course of disciplinary proceedings;

(10) Suggest strategies for preventing, reducing, and eliminating drug misuse, diversion, and abuse, including professional and public education, and treatment of persons misusing and abusing drugs;

(11) Conduct or encourage educational programs to be conducted to prevent the misuse, diversion, and abuse of drugs for health care practitioners and licensed or certified health care facilities;

(12) Monitor trends of drug misuse, diversion, and abuse and make periodic reports to disciplinary boards of licensed health care practitioners and education, treatment, and appropriate law enforcement agencies regarding these trends;

(13) Enter into written agreements with all other state and federal agencies with any responsibility for controlling drug misuse, diversion, or abuse and with health maintenance organizations, health care service contractors, and health care providers to assist and promote coordination of agencies responsible for ensuring compliance with controlled substances laws and to monitor observance of these laws and cooperation between these agencies. The department of social and health services, the department of labor and industries, and any other state agency including licensure disciplinary boards, shall refer all apparent instances of over-prescribing by practitioners and all apparent instances of legend drug overuse to the department. The department shall also encourage such referral by health maintenance organizations, health service contractors, and health care providers.

Sec. 16. RCW 18.64.310 and 2013 c 19 s 21 are each amended to read as follows:

The department shall:

(1) Establish reasonable license and examination fees and fees for services to other agencies in accordance with RCW 43.70.250 and 43.70.280. In cases where there are unanticipated demands for services, the department may request payment for services directly from the agencies for whom the services are performed, to the extent that revenues or other funds are available. Drug-related investigations regarding licensed health care practitioners shall be funded by an appropriation to the department from the health professions account. The payment may be made on either an advance or a reimbursable basis as approved by the director of financial management;

(2) Employ, with confirmation by the commission, an executive officer, who shall be exempt from the provisions of chapter 41.06 RCW and who shall (~~be a pharmacist licensed in Washington, and~~) employ inspectors, investigators, chemists, and other persons as necessary to assist it for any purpose which it may deem necessary;

(3) Investigate and prosecute, at the direction of the commission, including use of subpoena powers, violations of law or regulations under its jurisdiction or the jurisdiction of the commission;

(4) Make, at the direction of the commission, inspections and investigations of pharmacies and other places, including dispensing machines, in which drugs or devices are stored, held, compounded, dispensed, sold, or administered to the ultimate consumer, to take and analyze any drugs or devices and to seize and condemn any drugs or devices which are adulterated, misbranded, stored, held, dispensed, distributed, administered, or compounded in violation of or contrary to law. The written operating agreement between the department and the commission, as required by RCW 43.70.240 shall include provisions for the department to involve the commission in carrying out its duties required by this section.

NEW SECTION. **Sec. 17.** A new section is added to chapter 18.64 RCW to read as follows:

The commission may appoint members of panels of at least three members. A quorum for transaction of any business by

a panel is a minimum of three members. A majority vote of a quorum of the panel is required to transact business delegated to it by the commission including, but not limited to, licensing, disciplinary, and adjudicative actions.

NEW SECTION. **Sec. 18.** A new section is added to chapter 18.59 RCW to read as follows:

Each member of the board shall be compensated in accordance with RCW 43.03.265. Members shall be reimbursed for travel expenses incurred in the actual performance of their duties, as provided in RCW 43.03.050 and 43.03.060. The board is designated as a class five group for purposes of chapter 43.03 RCW.

Sec. 19. RCW 18.59.120 and 2011 c 336 s 492 are each amended to read as follows:

(1) There is established a board of occupational therapy practice. The board shall consist of five members appointed by the governor, who may consider the persons who are recommended for appointment by occupational therapy associations of the state. The members of the board shall be residents of the state. Four of the members shall have been engaged in rendering services to the public, teaching, or research in occupational therapy for at least five years immediately preceding their appointment. Three of these four board members shall be occupational therapists who shall at all times be holders of licenses for the practice of occupational therapy in the state, (~~except for the initial members of the board,~~) all of whom shall fulfill the requirements for licensure under this chapter. At least one member of the board shall be an occupational therapy assistant licensed to assist in the practice of occupational therapy, except for the initial member appointed to this position, who shall fulfill the requirements for licensure as a occupational therapy assistant under this chapter. The remaining member of the board shall be a member of the public with an interest in the rights of consumers of health services.

(2) (~~The governor shall, within sixty days after June 7, 1984, appoint one member for a term of one year, two members for a term of two years, and two members for a term of three years.~~) Appointments (~~made thereafter~~) shall be for three-year terms, but no person shall be appointed to serve more than two

consecutive full terms. Terms shall begin on the first day of the calendar year and end on the last day of the calendar year or until successors are appointed, except for the initial appointed members, who shall serve through the last calendar day of the year in which they are appointed before commencing the terms prescribed by this section. The governor shall make appointments for vacancies in unexpired terms within ninety days after the vacancies occur.

(3) The board shall meet during the first month of each calendar year to select a chair and for other purposes. At least one additional meeting shall be held before the end of each calendar year. Further meetings may be convened at the call of the chair or the written request of any two board members. ~~((A majority of members of the board constitutes a quorum for all purposes.))~~ A majority of the board members appointed and serving constitutes a quorum for the transaction of board business. The affirmative vote of a majority of a quorum of the board is required to carry a motion or resolution, to adopt a rule, or to pass a measure. All meetings of the board shall be open to the public, except that the board may hold closed sessions to prepare, approve, grade, or administer examinations or, upon request of an applicant who fails an examination, to prepare a response indicating the reasons for the applicant's failure.

~~((4) Members of the board shall receive compensation in the amount of fifty dollars for each day's attendance at proper meetings of the committee.))~~

Sec. 20. RCW 18.30.050 and 2002 c 160 s 4 are each amended to read as follows:

(1) The Washington state board of denturists is created. The board shall consist of seven members appointed by the secretary as follows:

(a) Four members of the board must be denturists licensed under this chapter, except initial appointees, who must have five years' experience in the field of denturism or a related field.

(b) Two members shall be selected from persons who are not affiliated with any health care profession or facility, at least one of whom must be over sixty-five years of age representing the elderly.

(c) One member must be a dentist licensed in the state of Washington.

(2) The members of the board shall serve for terms of three years. ~~((The terms of the initial members shall be staggered, with the members appointed under subsection (1)(a) of this section serving two year and three year terms initially and the members appointed under subsection (1)(b) and (c) of this section serving one year, two year, and three year terms initially. Vacancies shall be filled in the same manner as the original appointments are made.))~~ Appointments to fill vacancies shall be for the remainder of the unexpired term of the vacant position.

(3) No appointee may serve more than two consecutive terms.

(4) Members of the board shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060. Each member of the board shall be compensated in accordance with RCW 43.03.265. The board is designated as a class five group for purposes of chapter 43.03 RCW.

(5) A member of the board may be removed for just cause by the secretary.

Sec. 21. RCW 18.30.060 and 1995 c 1 s 7 are each amended to read as follows:

(1) The board shall elect a chairperson of the board annually. The same person may not hold the office of chairperson for more than three years in succession.

(2) ~~((A majority of the board constitutes a quorum for all purposes, and a majority vote of the members voting governs the decisions of the board.))~~ A majority of the board members appointed and serving constitutes a quorum for the transaction of board business. The affirmative vote of a majority of a quorum of the board is required to carry a motion or resolution, to adopt a rule, or to pass a measure.

Sec. 22. RCW 18.36A.150 and 2011 c 41 s 1 are each amended to read as follows:

(1) There is created the board of naturopathy consisting of seven members appointed by the governor to four-year terms. Five members of the board shall be persons licensed under this chapter and two shall be members of the public. No member may serve more than two consecutive full terms. Members hold office until their successors are appointed. ~~((The governor may appoint the initial members of the board to staggered terms from one to four years. Thereafter,~~

~~all~~) All members shall be appointed to full four-year terms.

(2) The public members of the board may not be a member of any other health care licensing board or commission, have a fiduciary obligation to a facility rendering services regulated under this chapter, or have a material or financial interest in the rendering of services regulated under this chapter.

(3) The board shall elect officers each year. The board shall meet at least twice each year and may hold additional meetings as called by the chair. Meetings of the board are open to the public, except that the board may hold executive sessions to the extent permitted by chapter 42.30 RCW. The department shall provide secretarial, clerical, and other assistance as required by the board.

(4) Each member of the board shall be compensated in accordance with RCW ~~((43.03.240))~~ 43.03.265. Members shall be reimbursed for travel expenses incurred in the actual performance of their duties, as provided in RCW 43.03.050 and 43.03.060. The board is designated as a class five group for purposes of chapter 43.03 RCW.

(5) A majority of the board members appointed and serving constitutes a quorum for the transaction of board business. The affirmative vote of a majority of a quorum of the board is required to carry a motion or resolution, to adopt a rule, or to pass a measure.

(6) The board may appoint members to panels of at least three members. A quorum for transaction of any business by a panel is a minimum of three members. A majority vote of a quorum of the panel is required to transact business delegated to it by the board.

(7) The board may adopt such rules as are consistent with this chapter as may be deemed necessary and proper to carry out the purposes of this chapter.

(8) The governor may remove a member of the board for neglect of duty, misconduct, or malfeasance or misfeasance in office. Whenever the governor is satisfied that a member of the board has been guilty of neglect of duty, misconduct, or malfeasance or misfeasance in office, he or she shall file with the secretary of state a statement of the cause for and the order of removal from office, and the secretary shall immediately send a certified copy

of the order of removal and statement of causes by certified mail to the last known post office address of the member. If a vacancy occurs on the board, the governor shall appoint a replacement to fill the remainder of the unexpired term.

Sec. 23. RCW 18.54.030 and 2011 c 336 s 489 are each amended to read as follows:

The initial composition of the optometry board includes the three members of the examining committee for optometry plus two more optometrists to be appointed by the governor.

The governor must make all appointments to the optometry board. Only optometrists who are ~~((citizens of the United States,))~~ residents of this state, having been licensed to practice and practicing optometry in this state for a period of at least four years immediately preceding the effective date of appointment, and who have no connection ~~((with any school or college embracing the teaching of optometry or))~~ with any optical supply business may be appointed.

~~((The governor may set the terms of office of the initial board at his or her discretion, to establish the following perpetual succession: The terms of the initial board include one position for one year, two for two years, and two for three years; and upon the expiration of the terms of the initial board, all))~~ All appointments are for three years.

In addition to the members specified in this section, the governor shall appoint a consumer member of the board, who shall serve for a term of three years.

In the event that a vacancy occurs on the board in the middle of an appointee's term, the governor must appoint a successor for the unexpired portion of the term only.

Sec. 24. RCW 18.54.060 and 1963 c 25 s 6 are each amended to read as follows:

~~((Three members constitute a quorum for the transaction of business of the board))~~ A majority of the board members appointed and serving constitutes a quorum for the transaction of board business. The affirmative vote of a majority of a quorum of the board is required to carry a motion or resolution, to adopt a rule, or to pass a measure.

Sec. 25. RCW 18.54.130 and 1984 c 287 s 41 are each amended to read as follows:

Members of the board are entitled to receive their travel expenses in accordance with RCW 43.03.050 and 43.03.060. Each member of the board will also be compensated in accordance with RCW (~~(43.03.240)~~) 43.03.265. The board is designated as a class five group for purposes of chapter 43.03 RCW.

Sec. 26. RCW 18.35.150 and 2014 c 189 s 12 are each amended to read as follows:

(1) There is created hereby the board of hearing and speech to govern the three separate professions: Hearing aid specialist, audiology, and speech-language pathology. The board shall consist of eleven members to be appointed by the governor.

(2) Members of the board shall be residents of this state. Three members shall represent the public and shall have an interest in the rights of consumers of health services, and shall not be or have been a member of, or married to a member of, another licensing board, a licensee of a health occupation board, an employee of a health facility, nor derive his or her primary livelihood from the provision of health services at any level of responsibility. Two members shall be hearing aid specialists who are licensed under this chapter, have at least five years of experience in the practice of hearing instrument fitting and dispensing, and must be actively engaged in fitting and dispensing within two years of appointment. Two members of the board shall be audiologists licensed under this chapter who have at least five years of experience in the practice of audiology and must be actively engaged in practice within two years of appointment. Two members of the board shall be speech-language pathologists licensed under this chapter who have at least five years of experience in the practice of speech-language pathology and must be actively engaged in practice within two years of appointment. One advisory nonvoting member shall be a speech-language pathology assistant certified in Washington. One advisory nonvoting member shall be a medical physician licensed in the state of Washington.

(3) The term of office of a member is three years. (~~Of the initial appointments, one hearing aid specialist, one speech language pathologist, one audiologist, and one consumer shall be appointed for a term of two years, and one hearing aid specialist, one speech language~~

~~pathologist, one audiologist, and two consumers shall be appointed for a term of three years. Thereafter, all appointments shall be made for expired terms.))~~ No member shall be appointed to serve more than two consecutive terms. A member shall continue to serve until a successor has been appointed. The governor shall either reappoint the member or appoint a successor to assume the member's duties at the expiration of his or her predecessor's term. A vacancy in the office of a member shall be filled by appointment for the unexpired term.

(4) The chair shall rotate annually among the hearing aid specialists, speech-language pathologists, audiologists, and public members serving on the board. In the absence of the chair, the board shall appoint an interim chair. In event of a tie vote, the issue shall be brought to a second vote and the chair shall refrain from voting.

(5) The board shall meet at least once each year, at a place, day and hour determined by the board, unless otherwise directed by a majority of board members. The board shall also meet at such other times and places as are requested by the department or by three members of the board. (~~A quorum is a majority of the board. A hearing aid specialist, speech language pathologist, and audiologist must be represented.))~~ A majority of the board members appointed and serving constitutes a quorum for the transaction of board business. The affirmative vote of a majority of a quorum of the board is required to carry a motion or resolution, to adopt a rule, or to pass a measure. Meetings of the board shall be open and public, except the board may hold executive sessions to the extent permitted by chapter 42.30 RCW.

(6) Members of the board shall be compensated in accordance with RCW (~~(43.03.240)~~) 43.03.265 and shall be reimbursed for their travel expenses in accordance with RCW 43.03.050 and 43.03.060. The board is designated as a class five group for purposes of chapter 43.03 RCW.

(7) The governor may remove a member of the board for cause at the recommendation of a majority of the board.

Sec. 27. RCW 18.57.003 and 2017 c 101 s 1 are each amended to read as follows:

There is hereby created an agency of the state of Washington, consisting of

eleven individuals appointed by the governor to be known as the Washington state board of osteopathic medicine and surgery.

On expiration of the term of any member, the governor shall appoint for a period of five years a qualified individual to take the place of such member. Each member shall hold office until the expiration of the term for which such member is appointed or until a successor shall have been appointed and shall have qualified. Initial appointments shall be made and vacancies in the membership of the board shall be filled for the unexpired term by appointment by the governor.

Each member of the board shall be (~~a citizen of the United States and must be~~) an actual resident of this state. Two members must be consumers who have neither a financial nor a fiduciary relationship to a health care delivery system, one member must have been in active practice as a licensed osteopathic physician assistant in this state for at least five years immediately preceding appointment, and every other member must have been in active practice as a licensed osteopathic physician and surgeon in this state for at least five years immediately preceding appointment.

The board shall elect a chairperson (~~a secretary~~) and a vice chairperson from its members. Meetings of the board shall be held at least four times a year and at such place as the board shall determine and at such other times and places as the board deems necessary.

~~((An affirmative vote of a simple majority of the members present at a meeting or hearing shall be required for the board to take any official action. The board may not take any action without a quorum of the board members present. A simple majority of the board members currently serving constitutes a quorum of the board.))~~ A majority of the board members appointed and serving constitutes a quorum for the transaction of board business. The affirmative vote of a majority of a quorum of the board is required to carry a motion or resolution, to adopt a rule, or to pass a measure.

Each member of the board shall be compensated in accordance with RCW 43.03.265 and shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060. The board is a

class five group for purposes of chapter 43.03 RCW.

Any member of the board may be removed by the governor for neglect of duty, misconduct, malfeasance or misfeasance in office, or upon written request of two-thirds of the physicians licensed under this chapter and in active practice in this state.

Sec. 28. RCW 18.57.003 and 2020 c 80 s 14 are each amended to read as follows:

There is hereby created an agency of the state of Washington, consisting of eleven individuals appointed by the governor to be known as the Washington state board of osteopathic medicine and surgery.

On expiration of the term of any member, the governor shall appoint for a period of five years a qualified individual to take the place of such member. Each member shall hold office until the expiration of the term for which such member is appointed or until a successor shall have been appointed and shall have qualified. Initial appointments shall be made and vacancies in the membership of the board shall be filled for the unexpired term by appointment by the governor.

Each member of the board shall be (~~a citizen of the United States and must be~~) an actual resident of this state. Two members must be consumers who have neither a financial nor a fiduciary relationship to a health care delivery system, and every other member must have been in active practice as a licensed osteopathic physician and surgeon in this state for at least five years immediately preceding appointment.

The board shall elect a chairperson (~~a secretary~~) and a vice chairperson from its members. Meetings of the board shall be held at least four times a year and at such place as the board shall determine and at such other times and places as the board deems necessary.

~~((An affirmative vote of a simple majority of the members present at a meeting or hearing shall be required for the board to take any official action. The board may not take any action without a quorum of the board members present. A simple majority of the board members currently serving constitutes a quorum of the board.))~~ A majority of the board members appointed and serving constitutes a quorum for the transaction

of board business. The affirmative vote of a majority of a quorum of the board is required to carry a motion or resolution, to adopt a rule, or to pass a measure.

Each member of the board shall be compensated in accordance with RCW 43.03.265 and shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060. The board is a class five group for purposes of chapter 43.03 RCW.

Any member of the board may be removed by the governor for neglect of duty, misconduct, malfeasance or misfeasance in office, or upon written request of two-thirds of the physicians licensed under this chapter and in active practice in this state.

Sec. 29. RCW 18.22.014 and 2020 c 248 s 2 are each amended to read as follows:

The board shall meet at the places and times it determines and as often as necessary to discharge its duties. The board shall elect a chairperson(➤) and a vice chairperson(~~(, and secretary)~~) from among its members. Members must be compensated in accordance with RCW 43.03.265 in addition to travel expenses provided by RCW 43.03.050 and 43.03.060. The board is a class five group for purposes of chapter 43.03 RCW. ~~((A simple majority of the board members currently serving constitutes a quorum of the board.))~~ A majority of the board members appointed and serving constitutes a quorum for the transaction of board business. The affirmative vote of a majority of a quorum of the board is required to carry a motion or resolution, to adopt a rule, or to pass a measure.

Sec. 30. RCW 18.200.060 and 1997 c 285 s 7 are each amended to read as follows:

(1) The secretary has the authority to appoint an advisory committee to further the purposes of this chapter. The secretary may consider the persons who are recommended for appointment by the orthotic and prosthetic associations of the state. The committee is composed of five members, one member initially appointed for a term of one year, two for a term of two years, and two for a term of three years. Subsequent appointments are for terms of three years. No person may serve as a member of the committee for more than two consecutive terms. Members of the advisory committee must be residents of this state ~~((and citizens of the United States))~~. The committee is

composed of three individuals licensed in the category designated and engaged in rendering services to the public. Two members must at all times be holders of licenses for the practice of either prosthetics or orthotics, or both, in this state, except for the initial members of the advisory committee, all of whom must fulfill the requirements for licensure under this chapter. One member must be a practicing orthotist. One member must be a practicing prosthetist. One member must be licensed by the state as a physician licensed under chapter 18.57 or 18.71 RCW, specializing in orthopedic medicine or surgery or psychiatry. Two members must represent the public at large and be unaffiliated directly or indirectly with the profession being credentialed but, to the extent possible, be consumers of orthotic and prosthetic services. The two members appointed to the advisory committee representing the public at large must have an interest in the rights of consumers of health services and must not be or have been a licensee of a health occupation committee or an employee of a health facility, nor derive his or her primary livelihood from the provision of health services at any level of responsibility.

(2) The secretary may remove any member of the advisory committee for cause as specified by rule. In the case of a vacancy, the secretary shall appoint a person to serve for the remainder of the unexpired term.

(3) The advisory committee may provide advice on matters specifically identified and requested by the secretary, such as applications for licenses.

(4) The advisory committee may be requested by the secretary to approve an examination required for licensure under this chapter.

(5) The advisory committee may be requested by the secretary to review and monitor the exemptions to requirements of certain orthoses and prostheses in this chapter and recommend to the secretary any statutory changes that may be needed to properly protect the public.

(6) The advisory committee, at the request of the secretary, may recommend rules in accordance with the administrative procedure act, chapter 34.05 RCW, relating to standards for

appropriateness of orthotic and prosthetic care.

(7) The advisory committee shall meet at the times and places designated by the secretary and hold meetings during the year as necessary to provide advice to the secretary. The committee may elect a chair and a vice chair. A majority of the members currently serving constitute a quorum.

(8) Each member of an advisory committee shall be reimbursed for travel expenses as authorized in RCW 43.03.050 and 43.03.060. In addition, members of the committees shall be compensated in accordance with RCW 43.03.240 when engaged in the authorized business of their committees.

(9) The secretary, members of advisory committees, or individuals acting on their behalf are immune from suit in any action, civil or criminal, based on any credentialing or disciplinary proceedings or other official acts performed in the course of their duties.

Sec. 31. RCW 18.25.0165 and 1994 sp.s. c 9 s 106 are each amended to read as follows:

Members must be (~~citizens of the United States and~~) residents of this state. Members must be licensed chiropractors for a period of five years before appointment. Public members of the commission may not be a member of any other health care licensing board or commission, or have a fiduciary obligation to a facility rendering health services regulated by the commission, or have a material or financial interest in the rendering of health services regulated by the commission.

Sec. 32. RCW 18.79.070 and 2005 c 17 s 1 are each amended to read as follows:

(1) The state nursing care quality assurance commission is established, consisting of fifteen members to be appointed by the governor to four-year terms. The governor shall consider nursing members who are recommended for appointment by the appropriate professional associations in the state. No person may serve as a member of the commission for more than two consecutive full terms.

(2) There must be seven registered nurse members, two advanced registered nurse practitioner members, three licensed practical nurse members, and

three public members on the commission. Each member of the commission must be a (~~citizen of the United States and a~~) resident of this state.

(3) (a) Registered nurse members of the commission must:

(i) Be licensed as registered nurses under this chapter; and

(ii) Have had at least three years' experience in the active practice of nursing and have been engaged in that practice within two years of appointment.

(b) In addition:

(i) At least one member must be on the faculty at a four-year university nursing program;

(ii) At least one member must be on the faculty at a two-year community college nursing program;

(iii) At least two members must be staff nurses providing direct patient care; and

(iv) At least one member must be a nurse manager or a nurse executive.

(4) Advanced registered nurse practitioner members of the commission must:

(a) Be licensed as advanced registered nurse practitioners under this chapter; and

(b) Have had at least three years' experience in the active practice of advanced registered nursing and have been engaged in that practice within two years of appointment.

(5) Licensed practical nurse members of the commission must:

(a) Be licensed as licensed practical nurses under this chapter; and

(b) Have had at least three years' actual experience as a licensed practical nurse and have been engaged in practice as a practical nurse within two years of appointment.

(6) Public members of the commission may not be a member of any other health care licensing board or commission, or have a fiduciary obligation to a facility rendering health services regulated by the commission, or have a material or financial interest in the rendering of health services regulated by the commission.

In appointing the initial members of the commission, it is the intent of the legislature that, to the extent possible, the governor appoint the existing members of the board of nursing and the board of practical nursing repealed under chapter 9, Laws of 1994 sp. sess. The governor may appoint initial members of the commission to staggered terms of from one to four years. Thereafter, all members shall be appointed to full four-year terms. Members of the commission hold office until their successors are appointed.

When the secretary appoints pro tem members, reasonable efforts shall be made to ensure that at least one pro tem member is a registered nurse who is currently practicing and, in addition to meeting other minimum qualifications, has graduated from an associate or baccalaureate nursing program within three years of appointment.

Sec. 33. RCW 18.79.140 and 1994 sp.s. c 9 s 414 are each amended to read as follows:

The executive director must be a graduate of ~~((an approved nursing education program and of))~~ a college or university, with a masters' degree ~~((, and currently licensed as a registered nurse under this chapter, have a minimum of eight years' experience in nursing in any combination of administration and nursing education; and have been actively engaged in the practice of registered nursing or nursing education within two years immediately before the time of appointment))~~.

Sec. 34. RCW 18.71.015 and 2019 c 55 s 4 are each amended to read as follows:

The Washington medical commission is established, consisting of thirteen individuals licensed to practice medicine in the state of Washington under this chapter, two individuals who are licensed in the state of Washington as physician assistants under chapter 18.71A RCW, and six individuals who are members of the public. At least two of the public members shall not be from the health care industry. Each congressional district now existing or hereafter created in the state must be represented by at least one physician member of the commission. The terms of office of members of the commission are not affected by changes in congressional district boundaries. Public members of the commission may not be a member of any

other health care licensing board or commission, or have a fiduciary obligation to a facility rendering health services regulated by the commission, or have a material or financial interest in the rendering of health services regulated by the commission.

The members of the commission shall be appointed by the governor ~~((Members of the initial commission may be appointed to staggered terms of one to four years)), and ((thereafter))~~ all terms of appointment shall be for four years. The governor shall consider such physician and physician assistant members who are recommended for appointment by the appropriate professional associations in the state. ~~((In appointing the initial members of the commission, it is the intent of the legislature that, to the extent possible, the existing members of the board of medical examiners and medical disciplinary board repealed under section 336, chapter 9, Laws of 1994 sp. sess. be appointed to the commission.))~~ No member may serve more than two consecutive full terms. Each member shall hold office until a successor is appointed.

Each member of the commission must be ~~((a citizen of the United States, must be))~~ an actual resident of this state, and, if a physician or physician assistant, must have been licensed to practice medicine in this state for at least five years.

The commission shall meet as soon as practicable after appointment and elect officers each year. Meetings shall be held at least four times a year and at such place as the commission determines and at such other times and places as the commission deems necessary. A majority of the commission members appointed and serving constitutes a quorum for the transaction of commission business.

The affirmative vote of a majority of a quorum of the commission is required to carry any motion or resolution, to adopt any rule, or to pass any measure. The commission may appoint panels consisting of at least three members. A quorum for the transaction of any business by a panel is a minimum of three members. A majority vote of a quorum of the panel is required to transact business delegated to it by the commission.

Each member of the commission shall be compensated in accordance with RCW 43.03.265 and in addition thereto shall

be reimbursed for travel expenses incurred in carrying out the duties of the commission in accordance with RCW 43.03.050 and 43.03.060. Any such expenses shall be paid from funds appropriated to the department of health.

Whenever the governor is satisfied that a member of a commission has been guilty of neglect of duty, misconduct, or malfeasance or misfeasance in office, the governor shall file with the secretary of state a statement of the causes for and the order of removal from office, and the secretary shall forthwith send a certified copy of the statement of causes and order of removal to the last known post office address of the member.

Vacancies in the membership of the commission shall be filled for the unexpired term by appointment by the governor.

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.

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. 35. Section 27 of this act expires July 1, 2022.

NEW SECTION. Sec. 36. Section 28 of this act takes effect July 1, 2022."

Correct the title.

Signed by Representatives Cody, Chair; Bateman, Vice Chair; Bronoske; Davis; Macri; Riccelli; Simmons; Stonier and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Schmick, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; Harris; Maycumber; Rude and Ybarra.

Referred to Committee on Rules for second reading.

February 22, 2022

ESSB 5761 Prime Sponsor, Committee on Labor, Commerce & Tribal Affairs: Concerning

employer requirements for providing wage and salary information to applicants for employment. Reported by Committee on Labor & Workplace Standards

MAJORITY recommendation: Do pass. Signed by Representatives Sells, Chair; Berry, Vice Chair; Bronoske and Ortiz-Self.

MINORITY recommendation: Do not pass. Signed by Representatives Hoff, Ranking Minority Member; Mosbrucker, Assistant Ranking Minority Member and Harris.

Referred to Committee on Rules for second reading.

February 23, 2022

E2SSB 5764 Prime Sponsor, Committee on Ways & Means: Concerning apprenticeships and higher education. Reported by Committee on College & Workforce Development

MAJORITY recommendation: Do pass. Signed by Representatives Slatter, Chair; Entenman, Vice Chair; Leavitt, Vice Chair; Chambers, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Hansen; Paul; Pollet and Sells.

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

MINORITY recommendation: Without recommendation. Signed by Representatives Hoff and Kraft.

Referred to Committee on Appropriations.

February 23, 2022

SSB 5765 Prime Sponsor, Committee on Health & Long Term Care: Concerning the practice of midwifery. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass. Signed by Representatives Cody, Chair; Bateman, Vice Chair; Bronoske; Davis; Macri; Riccelli; Simmons; Stonier and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Schmick, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; Harris; Maycumber; Rude and Ybarra.

Referred to Committee on Rules for second reading.

February 22, 2022

SSB 5783 Prime Sponsor, Committee on Labor, Commerce & Tribal Affairs: Reestablishing the underground economy

task force. Reported by Committee on Labor & Workplace Standards

MAJORITY recommendation: Do pass. Signed by Representatives Sells, Chair; Berry, Vice Chair; Mosbrucker, Assistant Ranking Minority Member; Bronoske and Ortiz-Self.

MINORITY recommendation: Without recommendation. Signed by Representative Harris.

MINORITY recommendation: Do not pass. Signed by Representative Hoff, Ranking Minority Member.

Referred to Committee on Rules for second reading.

February 23, 2022

SB 5787 Prime Sponsor, Senator Nguyen: Concerning the linked deposit program. Reported by Committee on Consumer Protection & Business

MAJORITY recommendation: Do pass. Signed by Representatives Kirby, Chair; Walen, Vice Chair; Vick, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Corry; Ryu and Santos.

Referred to Committee on Rules for second reading.

February 21, 2022

2SSB 5789 Prime Sponsor, Committee on Ways & Means: Creating the Washington career and college pathways innovation challenge program. Reported by Committee on College & Workforce Development

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The Washington career and college pathways innovation challenge program is established. The purpose of the program is to meet statewide educational attainment goals established in RCW 28B.77.020 by developing local and regional partnerships that foster innovations to:

(a) Increase postsecondary enrollment, success, and completion for students enrolling directly from high school and adults returning to education;

(b) Eliminate educational opportunity gaps for students of color, English language learners, students with disabilities, opportunity youth, and foster and homeless youth;

(c) Enhance the ability of Washington residents to achieve their own goals in life; and

(d) Increase the skills and talents of Washington's workforce.

(2) (a) The student achievement council shall administer the program and award grants, based on a competitive grant process, to local and regional partnerships that represent cross-sector collaborations among education and higher education agencies and institutions, local education agencies, local government, community-based organizations, employers, and other local entities. The student achievement council must consult, in both the design of the grant program as well as in the administration of the grant program, with stakeholders including representatives of:

(i) The state board for community and technical colleges;

(ii) An organization representing the presidents of the public four-year institutions of higher education;

(iii) The workforce training and education coordinating board;

(iv) An organization representing the private, not-for-profit, four-year institutions of higher education;

(v) The commission on African American affairs;

(vi) The commission on Hispanic affairs;

(vii) The commission on Asian Pacific American affairs;

(viii) The Washington state LGBTQ commission;

(ix) The governor's office of Indian affairs; and

(x) The Washington state women's commission.

(b) In awarding the grants, the student achievement council shall consider applications that meet at least one of the following criteria:

(i) Plan and pilot innovative initiatives to raise educational attainment and reach new populations;

(ii) Engage community-based organizations and resources to reach the range of populations living in the region;

(iii) Develop programs that recognize the needs of specific populations to be successful in postsecondary education and training;

(iv) Expand the use of integrated work-based learning models and career connected learning;

(v) Provide financial support to cover expenses beyond educational tuition and fees, and other services and supports for students to enroll and complete education and training;

(vi) Further the development of innovations, such as the use of mastery-based measurements of student achievement as the basis for awarding degrees and certificates, expansion of accelerated programs, and alternative scheduling to meet working adult needs; and

(vii) Include local matching funds.

(c) In administering the program the student achievement council may hire staff to support grant oversight and provide technical assistance to grantees.

(d) The student achievement council shall provide a report each year by September 1st to the governor and the education and higher education committees of the legislature. The report shall:

(i) Describe grants awarded;

(ii) Report the progress of each local and regional partnership by reporting on high school graduation, postsecondary enrollment, and completion for each of the regions that partnerships serve; and

(iii) Disaggregate data by income, race, ethnicity, and other demographic characteristics.

Sec. 2. RCW 28B.120.040 and 2012 c 229 s 575 are each amended to read as follows:

The ((~~student achievement council fund for innovation and quality~~)) Washington career and college pathways innovation challenge program account is hereby established in the custody of the state treasurer. The student achievement council shall deposit in the fund all moneys received ((~~under RCW 28B.120.030~~)) for the Washington career and college pathways innovation challenge program. Moneys in the fund may be spent only for the purposes of ((~~RCW 28B.120.010 and 28B.120.020~~)) awarding

grants under the Washington career and college pathways innovation challenge program. Disbursements from the fund shall be on the authorization of the student achievement council. The fund is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements.

NEW SECTION. Sec. 3. The student achievement council may solicit and receive such 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 the program and may expend the same or any income therefrom according to the terms of the gifts, grants, or endowments.

Sec. 4. RCW 43.79A.040 and 2021 c 175 s 10 and 2021 c 108 s 5 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)~~) 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 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 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 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 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 eighty 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. 5.** The following acts or parts of acts are each repealed:

(1)RCW 28B.120.005 (Findings) and 2010 c 245 s 6, 1999 c 169 s 2, & 1991 c 98 s 1;

(2)RCW 28B.120.010 (Washington fund for innovation and quality in higher education program—Incentive grants) and 2012 c 229 s 571, 2010 c 245 s 7, 1999 c 169 s 5, 1996 c 41 s 1, & 1991 c 98 s 2;

(3)RCW 28B.120.020 (Program administration—Powers and duties of student achievement council) and 2012 c 229 s 572, 2011 1st sp.s. c 11 s 235, 2010 c 245 s 8, 1999 c 169 s 3, 1996 c 41 s 2, & 1991 c 98 s 3;

(4)RCW 28B.120.025 (Program administration—Powers and duties of state board for community and technical colleges) and 2012 c 229 s 573 & 1999 c 169 s 4;

(5)RCW 28B.120.030 (Receipt of gifts, grants, and endowments) and 2012 c 229 s 574, 1999 c 169 s 6, & 1991 c 98 s 4; and

(6)RCW 28B.120.900 (Intent—1999 c 169) and 1999 c 169 s 1.

NEW SECTION. **Sec. 6.** Sections 1 and 3 of this act constitute a new chapter in Title 28B RCW."

Signed by Representatives Slatter, Chair; Entenman, Vice Chair; Leavitt, Vice Chair; Chambers, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Hansen; Paul; Pollet and Sells.

MINORITY recommendation: Do not pass. Signed by Representatives Chandler; Hoff; Kraft and Sutherland.

Referred to Committee on Appropriations.

February 22, 2022

SB 5801 Prime Sponsor, Senator Keiser: Concerning attorney and witness fees in industrial insurance court appeals. Reported by Committee on Labor & Workplace Standards

MAJORITY recommendation: Do pass. Signed by Representatives Sells, Chair; Berry, Vice Chair; Bronoske and Ortiz-Self.

MINORITY recommendation: Do not pass. Signed by Representatives Hoff, Ranking Minority Member; Mosbrucker, Assistant Ranking Minority Member and Harris.

Referred to Committee on Rules for second reading.

February 23, 2022

SB 5817 Prime Sponsor, Senator Frockt: Restricting the use of synthetic media in campaigns for elective office. Reported by Committee on State Government & Tribal Relations

MAJORITY recommendation: Do pass. Signed by Representatives Valdez, Chair; Lekanoff, Vice Chair; Dolan and Gregerson.

MINORITY recommendation: Without recommendation. Signed by Representatives Volz, Ranking Minority Member; Walsh, Assistant Ranking Minority Member and Graham.

Referred to Committee on Rules for second reading.

February 22, 2022

SSB 5819 Prime Sponsor, Committee on Ways & Means: Concerning the developmental disabilities administration's no-paid services caseload. Reported by Committee on Housing, Human Services & Veterans

MAJORITY recommendation: Do pass. Signed by Representatives Peterson, Chair; Taylor, Vice Chair; Gilday, Ranking Minority Member; Barkis, Assistant Ranking Minority Member; Bateman; Chopp; Donaghy; Jacobsen and Leavitt.

Referred to Committee on Appropriations.

February 21, 2022

ESSB 5847 Prime Sponsor, Committee on Higher Education & Workforce Development: Providing information to public service employees about the public service loan forgiveness program. Reported by Committee on College & Workforce Development

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature recognizes that our country faces a student loan debt crisis. Nationally, Americans owe \$1.73 trillion in student loans. In Washington state, about 767,300 student loan borrowers owe nearly \$27.4 billion of outstanding debt,

more than \$35,700 per borrower on average.

(2) Student loan debt is a multigenerational issue that affects borrowers of all ages and jeopardizes millions of families' long-term financial security. While student loan balances have risen for all age groups, older borrowers have seen the largest increase. Student loan defaults rise with the borrower's age, and parents and grandparents take on debt to help their children and grandchildren pay for their education. Borrowers are increasingly defaulting on their debts, resulting in income garnishment and deductions from federal tax refunds or social security payments.

(3) The legislature further recognizes that the federal government offers and provides loan forgiveness for individuals who have worked in a public service job full time and have made qualifying payments towards their student loans. Unfortunately, the eligibility criteria to qualify for this program has been complex, leading to low approval rates for individuals who would otherwise qualify. By providing more public awareness of this program, the legislature intends to help alleviate the student loan debt burden of those who have committed their lives to public service.

(4) It is the intent of the legislature to do the following:

(a) Develop materials to increase awareness of the federal public service loan forgiveness program;

(b) Create a program for state agencies to certify employment for the purpose of the public service loan forgiveness program;

(c) Have public service employers collaborate on a statewide initiative to improve access and remove barriers to the public service loan forgiveness program for all public service employees in the state; and

(d) Acknowledge the work done outside the classroom by part-time academic employees, allowing for those hours to be counted towards the definition of full time for the public service loan forgiveness program as set forth in 34 C.F.R. Sec. 685.219.

NEW SECTION. **Sec. 2.** A new section is added to chapter 28B.77 RCW to read as follows:

(1) The student loan advocate, established in RCW 28B.77.007, shall develop, and update annually as necessary, materials designed to increase awareness of the public service loan forgiveness program. Materials include, at a minimum:

(a) A standardized letter for public service employers to send to their employees briefly summarizing the public service loan forgiveness program, information about what eligible employees are required to do in order to benefit from the program, and how an eligible employee may contact their student loan servicer for additional resources;

(b) A detailed fact sheet describing the public service loan forgiveness program, including the official website address maintained by the United States department of education for the program and contact information for the student loan advocate; and

(c) A document containing frequently asked questions about the public service loan forgiveness program.

(2) The student loan advocate shall coordinate with the office of financial management, the secretary of state, local governmental entities, and other relevant agencies and public service employer entities to ensure that public service employers receive materials developed in subsection (1) of this section.

(3) For purposes of this section, the definitions in this subsection apply:

(a) "Public service employer" includes the following:

(i) Any governmental entity including state, county, city, or other local government entity including political subdivisions, such as office, department, independent agency, school district, public college or university system, public library system, authority, or other body including the legislature and the judiciary;

(ii) Any employer that has received designation as a tax-exempt organization pursuant to Title 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code of 1986, as amended;

(iii) Any other entities identified as a public service job in Title 20 U.S.C. Sec. 1087e(m).

(b) "Public service loan forgiveness program" means the federal loan forgiveness program established pursuant to Title 20 U.S.C. Sec. 1087e(m) and 34 C.F.R. Sec. 685.219.

NEW SECTION. Sec. 3. A new section is added to chapter 43.41 RCW to read as follows:

(1) The office shall:

(a) Develop a program for state agencies to certify employment for the purposes of the public service loan forgiveness program by July 1, 2023.

(b) Assist the student loan advocate in creating and distributing materials designed to increase awareness of the public service loan forgiveness program set forth in section 1 of this act.

(c) Collaborate with the student achievement council, the employment security department, the department of retirement systems, nonprofit entities, local government representatives, and other public service employers in developing a statewide initiative to improve access and remove barriers to the public service loan forgiveness program for all public service employees. The program established for state agencies in this section and the certification process in section 4 of this act may be considered in the development of the initiative. A plan for a statewide initiative must be developed and submitted to the higher education committees of the legislature by December 1, 2024, in compliance with RCW 43.01.036.

(2) For purposes of this section, the definitions in this subsection apply:

(a) "Certifying employment" means either completing the employer sections of the public service loan forgiveness form or sharing data directly with the United States department of education that corresponds to the information required for the public service loan forgiveness form, as allowed by the United States department of education.

(b) "Public service employer" includes the following:

(i) Any governmental entity including state, county, city, or other local government entity including political

subdivisions, such as office, department, independent agency, school district, public college or university system, public library system, authority, or other body including the legislature and the judiciary;

(ii) Any employer that has received designation as a tax-exempt organization pursuant to Title 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code of 1986, as amended;

(iii) Any other entities identified as a public service job in Title 20 U.S.C. Sec. 1087e(m).

(c) "Public service loan forgiveness program" means the federal loan forgiveness program established pursuant to Title 20 U.S.C. Sec. 1087e(m) and 34 C.F.R. Sec. 685.219.

(d) "State agency" or "agency" means departments, offices, agencies, or institutions of state government, the legislature, institutions of higher education, school districts, and educational service districts.

NEW SECTION. Sec. 4. A new section is added to chapter 41.04 RCW to read as follows:

(1) As soon as available, a state agency shall provide the materials described in section 2 of this act in written or electronic form to:

(a) All employees annually;

(b) Newly hired employees within 30 days of the employee's first day of employment.

(2) A state agency must certify employment for the purposes of the public service loan forgiveness program in accordance with the program established in section 3 of this act beginning July 1, 2023.

(a) If a state agency does not directly certify employment with the United States department of education, the state agency must annually provide notice of renewal and a copy of the public service loan forgiveness form with employer information and employment certification sections of the form already completed reflecting at least the last 12 months of employment to:

(i) An employee who requests a public service loan forgiveness form;

(ii) Any current employee for whom the state agency has previously certified

employment, unless the employee has opted out; and

(iii) An employee upon separation from service or employment, unless the employee has opted out. The notice of renewal and completed employer sections of the public service loan forgiveness form provided to a separated employee must be sent within 60 days of separation and are exempted from the annual requirement set forth in subsection (2)(a) of this section.

(b) A state agency shall not unreasonably delay in certifying employment.

(c) A state agency must seek permission from its employees prior to certifying their employment.

(d) Institutions of higher education must use the calculation established in section 5 of this act and may apply it retroactively to determine whether a part-time academic employee is considered full time for the public service loan forgiveness program.

(e) A state agency may send the information necessary for public service loan forgiveness employment certification to the United States department of education, or its agents, if the United States department of education permits public service employers to certify employment for past or present individual employees or groups of employees directly, notwithstanding other provisions of law.

(f) The office of financial management is authorized to adopt rules for the purpose of this section.

(3) An employee of a state agency may opt out of the employment certification process established in section 3 of this act at any time.

(4) For purposes of this section, the definitions in this subsection apply:

(a) "Certifying employment" means either completing the employer sections of the public service loan forgiveness form or sharing data directly with the United States department of education that corresponds to the information required for the public service loan forgiveness form.

(b) "Full time" has the same meaning as set forth in 34 C.F.R. Sec. 685.219.

(c) "Public service employer" includes the following:

(i) Any governmental entity including state, county, city, or other local government entity including political subdivisions, such as office, department, independent agency, school district, public college or university system, public library system, authority, or other body including the legislature and the judiciary;

(ii) Any employer that has received designation as a tax-exempt organization pursuant to Title 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code of 1986, as amended;

(iii) Any other entities identified as a public service job in Title 20 U.S.C. Sec. 1087e(m).

(d) "Public service loan forgiveness program" means the federal loan forgiveness program established pursuant to Title 20 U.S.C. Sec. 1087e(m) and 34 C.F.R. Sec. 685.219.

(e) "State agency" or "agency" means departments, offices, agencies, or institutions of state government, the legislature, institutions of higher education, school districts, and educational service districts.

NEW SECTION. Sec. 5. A new section is added to chapter 41.04 RCW to read as follows:

For the purpose of determining whether a part-time academic employee at an institution of higher education is considered full time for certifying employment for the public service loan forgiveness program, duties performed in support of, or in addition to, contractually assigned in-class teaching hours must be included. To calculate this, each hour of in-class teaching time shall be multiplied by 3.35 hours. This section shall not supersede any calculation or adjustment established by a collective bargaining agreement or employer policy for additional work done outside of in-class teaching. An institution of higher education shall not treat any adjusted total hours worked differently from hours worked without an adjustment when determining whether an employee is full time. "Institution of higher education" has the same meaning as "institutions of higher education" in RCW 28B.10.016.

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."

Correct the title.

Signed by Representatives Slatter, Chair; Entenman, Vice Chair; Leavitt, Vice Chair; Jacobsen, Assistant Ranking Minority Member; Hansen; Paul; Pollet and Sells.

MINORITY recommendation: Do not pass. Signed by Representatives Chambers, Ranking Minority Member; Chandler; Hoff; Kraft and Sutherland.

Referred to Committee on Appropriations.

February 23, 2022

SB 5855 Prime Sponsor, Senator Lovelett: Concerning the use of campaign funds to reimburse expenses for child care and other caregiving services. Reported by Committee on State Government & Tribal Relations

MAJORITY recommendation: Do pass. Signed by Representatives Valdez, Chair; Lekanoff, Vice Chair; Volz, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Dolan; Graham and Gregerson.

Referred to Committee on Rules for second reading.

February 23, 2022

SSB 5856 Prime Sponsor, Committee on Law & Justice: Concerning transfers of firearms to museums and historical societies. Reported by Committee on Civil Rights & Judiciary

MAJORITY recommendation: Do pass. Signed by Representatives Hansen, Chair; Simmons, Vice Chair; Walsh, Ranking Minority Member; Graham, Assistant Ranking Minority Member; Abbarno; Davis; Entenman; Goodman; Kirby; Klippert; Orwall; Peterson; Thai; Valdez and Walen.

MINORITY recommendation: Without recommendation. Signed by Representatives Gilday, Assistant Ranking Minority Member and Ybarra.

Referred to Committee on Rules for second reading.

February 22, 2022

ESSB 5878 Prime Sponsor, Committee on Early Learning & K-12 Education: Clarifying visual and performing arts instruction. Reported by Committee on Education

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) Washington state has long led the way in creating arts education policy. Washington state was one of the first states to adopt visual and performing arts graduation requirements. Our state has a two-credit visual and performing arts graduation requirement, although the second credit may be waived in certain circumstances. Our state has also been a leader by formally declaring the arts including dance, music, theatre, visual arts, and media as core content areas in the definition of basic education. However, there is a very large gap between policy and practice in our state. While most high schools offer a range of arts courses, it is not uncommon for middle schools to offer only one of the arts, usually music, and for elementary schools to offer no formal arts instruction at all, during the regular school day. When arts instruction is offered, it is often as an extracurricular activity, a volunteer docent program, or as a program which meets far less often than other core subjects do. Further, students who perform poorly on standardized tests in math and English often have what little arts instruction they would normally receive taken away, in favor of remediation in the test subject areas. Our students who live in low socioeconomic areas tend to perform worse on standardized tests. As a result, poorer students in our state tend to be denied arts instruction at a higher rate than students from economically stable homes and neighborhoods. The evidence of the multiple benefits of arts education is voluminous and undeniable. The arts are not only a vehicle for doing better at other subjects; they have immense value in their own right and should be taught as stand-alone disciplines, the way our laws and policies are written.

(2) The legislature intends to clarify, for schools and school districts, the importance of arts education and to bring our schools' practices in line with our state and federal laws and policies, and the promises made to our communities, by ensuring formal instruction in the core disciplines of visual and performing arts for all Washington students, regardless of their family's socioeconomic status or the relative affluence of the neighborhood in which they live. The

legislature recognizes and supports that the best practice is for basic education courses, including the arts, to be taught by certificated teachers who are qualified through an endorsement to teach in the subject area of the course. However, the legislature acknowledges that there is a shortage of arts endorsed teachers in Washington, so intends to allow arts instruction to also be provided by certificated teachers actively pursuing an endorsement in the relevant arts discipline.

Sec. 2. RCW 28A.230.020 and 2013 c 23 s 48 are each amended to read as follows:

All common schools shall give instruction in reading, handwriting, orthography, written and mental arithmetic, geography, the history of the United States, English grammar, visual and performing arts, physiology and hygiene with special reference to the effects of alcohol and drug abuse on the human system, science with special reference to the environment, and such other studies as may be prescribed by rule of the superintendent of public instruction. All teachers shall stress the importance of the cultivation of manners, the fundamental principles of honesty, honor, industry and economy, the minimum requisites for good health including the beneficial effect of physical exercise and methods to prevent exposure to and transmission of sexually transmitted diseases, and the worth of kindness to all living creatures and the land. The prevention of child abuse may be offered as part of the curriculum in the common schools.

NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.230 RCW to read as follows:

(1) Beginning with the 2023-24 school year, public schools shall offer regular instruction in at least one visual art or at least one performing art, throughout the school year. Each student must receive instruction in at least one arts discipline throughout their elementary education experience. For grades nine through 12, all students must be given the opportunity to take arts coursework each academic year.

(2) Every student must have access to arts education, as part of basic education under RCW 28A.150.210. Arts instruction must be accessible by all students, in a manner that is

commensurate with instruction in other core subject areas.

(3) Arts instruction must be provided by either: A certificated teacher with an endorsement in the relevant arts discipline; or a certificated teacher actively pursuing an endorsement in the relevant arts discipline.

(4) Instruction under this section must be solely for the arts discipline in the skills and craft of each specific arts discipline as their own end, rather than as a vehicle to enhance learning in any other nonarts subject area. If schools wish to integrate or infuse the arts into other subject matter, they must do so in addition to the regular, formal arts instruction required by this section.

(5) The arts instructors in each school district, as subject matter experts, shall be consulted to determine which specific visual and performing arts courses to offer at given grade levels, so that instruction is properly aligned to state learning standards in the arts and students' developmental stages and vertically aligned to give arts-focused students the best chance for success in their arts college or career pathway.

(6) For the purposes of this section, "public schools" has the same meaning as in RCW 28A.150.010."

Correct the title.

Signed by Representatives Santos, Chair; Dolan, Vice Chair; Berg; Bergquist; Callan; Ortiz-Self and Stonier.

MINORITY recommendation: Without recommendation. Signed by Representatives Ybarra, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; McCaslin; McEntire; Rude and Steele.

Referred to Committee on Rules for second reading.

February 22, 2022

SSB 5890

Prime Sponsor, Committee on Labor, Commerce & Tribal Affairs: Clarifying eligibility for the presumption for workers' compensation for all personnel working at a radiological hazardous waste facility. Reported by Committee on Labor & Workplace Standards

MAJORITY recommendation: Do pass. Signed by Representatives Sells, Chair; Berry, Vice Chair;

Mosbrucker, Assistant Ranking Minority Member; Bronoske and Ortiz-Self.

MINORITY recommendation: Do not pass. Signed by Representatives Hoff, Ranking Minority Member and Harris.

Referred to Committee on Rules for second reading.

February 23, 2022

SSB 5900 Prime Sponsor, Committee on Health & Long Term Care: Creating a provisional certification for emergency medical services providers under chapters 18.71 and 18.73 RCW. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass. Signed by Representatives Cody, Chair; Bateman, Vice Chair; Schmick, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; Bronoske; Davis; Harris; Macri; Maycumber; Riccelli; Rude; Simmons; Stonier; Tharinger and Ybarra.

Referred to Committee on Rules for second reading.

February 22, 2022

SB 5927 Prime Sponsor, Senator Honeyford: Concerning the safety and security of retail cannabis outlets. Reported by Committee on Public Safety

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 69.50 RCW to read as follows:

(1) Each retail outlet must report any attempt or incident of robbery in the first or second degree at the retail outlet to the board within 10 days of the attempt or incident.

(2) The board's chief enforcement officer must regularly consult with the Washington state patrol to provide details of attempts or incidents of robbery in the first or second degree of a retail outlet and to discuss any evidence that indicates a pattern of, or coordinated effort by, a criminal enterprise.

Sec. 2. RCW 9.94A.832 and 2013 c 270 s 1 are each amended to read as follows:

In a criminal case where((+

~~((1))~~) the defendant has been convicted of robbery in the first degree or robbery in the second degree(~~((+))~~) and

~~((2))~~) there has been a special allegation pleaded and proven beyond a reasonable doubt that the defendant committed a robbery of:

(1) A pharmacy as defined in RCW 18.64.011(~~((21))~~); or

(2) A cannabis retail outlet, licensed under chapter 69.50 RCW, and the defendant committed the robbery in concert with another individual or individuals;

the court shall make a finding of fact of the special allegation, or if a jury is had, the jury shall, if it finds the defendant guilty, also find a special verdict as to the special allegation."

Correct the title.

Signed by Representatives Goodman, Chair; Johnson, J., Vice Chair; Mosbrucker, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Davis; Griffey; Hackney; Orwall; Ramos; Simmons; Thai and Young.

MINORITY recommendation: Without recommendation. Signed by Representative Graham.

Referred to Committee on Rules for second reading.

February 22, 2022

SB 5929 Prime Sponsor, Senator Wilson, C.: Changing the membership of the legislative-executive WorkFirst poverty reduction oversight task force. Reported by Committee on Housing, Human Services & Veterans

MAJORITY recommendation: Do pass. Signed by Representatives Peterson, Chair; Taylor, Vice Chair; Bateman; Chopp; Donaghy and Leavitt.

MINORITY recommendation: Without recommendation. Signed by Representatives Gilday, Ranking Minority Member; Barkis, Assistant Ranking Minority Member and Jacobsen.

Referred to Committee on Rules for second reading.

February 23, 2022

SB 5931 Prime Sponsor, Senator Wagoner: Concerning appointment of judges pro tempore in the court of appeals. Reported by Committee on Civil Rights & Judiciary

MAJORITY recommendation: Do pass. Signed by Representatives Hansen, Chair; Simmons, Vice Chair; Walsh, Ranking Minority Member; Abbarno; Davis; Entenman; Goodman; Kirby; Orwall; Peterson; Thai; Valdez and Walen.

MINORITY recommendation: Without recommendation. Signed by Representatives Gilday, Assistant Ranking Minority Member; Graham, Assistant Ranking Minority Member; Klippert and Ybarra.

Referred to Committee on Rules for second reading.

February 23, 2022

SSB 5946 Prime Sponsor, Committee on Business, Financial Services & Trade: Protecting consumers from the discontinuance of the London interbank offered rate. Reported by Committee on Consumer Protection & Business

MAJORITY recommendation: Do pass. Signed by Representatives Kirby, Chair; Walen, Vice Chair; Vick, Ranking Minority Member; Corry; Ryu and Santos.

MINORITY recommendation: Do not pass. Signed by Representative Dufault, Assistant Ranking Minority Member.

Referred to Committee on Rules for second reading.

February 23, 2022

SSB 5961 Prime Sponsor, Committee on Agriculture, Water, Natural Resources & Parks: Incentivizing the use of biochar. Reported by Committee on State Government & Tribal Relations

MAJORITY recommendation: Do pass. Signed by Representatives Valdez, Chair; Lekanoff, Vice Chair; Volz, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Dolan; Graham and Gregerson.

Referred to Committee on Rules for second reading.

February 23, 2022

SSB 5964 Prime Sponsor, Committee on Ways & Means: Concerning consolidated local permit review processes. Reported by Committee on Local Government

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 36.70B.140 and 1995 c 347 s 418 are each amended to read as follows:

(1) A local government by ordinance or resolution may exclude the following project permits from the provisions of RCW 36.70B.060 through 36.70B.090 and 36.70B.110 through 36.70B.130: Landmark designations, street vacations, or other approvals relating to the use of public areas or facilities, or other project permits, whether administrative or quasi-judicial, that the local government by ordinance or resolution has determined present special circumstances that warrant a review process different from that provided in RCW 36.70B.060 through 36.70B.090 and 36.70B.110 through 36.70B.130.

(2) A local government by ordinance or resolution also may exclude the following project permits from the provisions of RCW 36.70B.060 and 36.70B.110 through 36.70B.130: Lot line or boundary adjustments and building and other construction permits, or similar administrative approvals, categorically exempt from environmental review under chapter 43.21C RCW, or for which environmental review has been completed in connection with other project permits.

(3) A local government must, by ordinance or resolution, exclude project permits for interior alterations within a residential unit that is located on a lot with four or fewer residential units from site plan review, provided that the interior alterations do not result in the following:

(a) Additional sleeping quarters or bedrooms;

(b) Nonconformity with federal emergency management agency substantial improvement thresholds; or

(c) Increase the total square footage or valuation of the structure thereby requiring upgraded fire access or fire suppression systems.

(4) For purposes of this section, "interior alterations" include construction activities that do not modify the existing site layout or its current use, and involve no exterior work adding to the building footprint.

(5) Nothing in this section precludes a city or county from using means other than site plan review to ensure that interior alterations do not increase nonconformity with local zoning or development regulations.

NEW SECTION. **Sec. 2.** A new section is added to chapter 36.70B RCW to read as follows:

(1) Subject to the availability of funds appropriated for this specific purpose, the department of commerce must establish a consolidated permit review grant program. The department may award grants to any local government that provides, by ordinance, resolution, or other action, a commitment to the following building permit review consolidation requirements:

(a) Issuing final decisions on permit applications for projects involving less than 5,000 square feet of building area within 45 business days or 90 calendar days, whichever period is longer. For the purposes of this section, "business days" do not include any day in which the local government is awaiting information, documentation, clarification, or other necessary action from the applicant before the processing of the application can resume.

(i) To achieve permit review within the stated time frame, a local government must provide consolidated review for building permit applications. This may include an initial technical peer review of the application for conformity with the requirements of RCW 36.70B.070 by all departments, divisions, and sections of the local government with jurisdiction over the project.

(ii) A local government may contract with a third-party business to conduct the consolidated permit review or as additional inspection staff. Any funds expended for such a contract may be eligible for reimbursement under this act;

(b) Establishing an application fee structure that would allow the jurisdiction to continue providing consolidated permit review within the 45 business day or 90 calendar day time frame.

(i) A local government may consult with local building associations to develop a reasonable fee system.

(ii) A local government must determine, no later than August 1, 2023, the specific fee structure needed to provide permit review within the timeline specified in this subsection (1)(b).

(2) A jurisdiction that is awarded a grant under this section must provide a

quarterly report to the department of commerce. The report must include the average and maximum time for permit review during the jurisdiction's participation in the grant program.

(3) If a jurisdiction is unable to successfully meet the terms and conditions of the grant, the jurisdiction must enter a 90 day probationary period. If the jurisdiction is not able to meet the requirements of this section by the end of the probationary period, the jurisdiction is no longer eligible to receive grants under this section.

(4) For the purposes of this section, "residential permit" means a permit issued by a city or county that satisfies the conditions of RCW 19.27.015(5) and is within the scope of the international residential code, as adopted in accordance with chapter 19.27 RCW.

NEW SECTION. **Sec. 3.** A new section is added to chapter 36.70B RCW to read as follows:

Subject to the availability of funds appropriated for this specific purpose, the department of commerce must establish a grant program for local governments to update their permit review process from paper filing systems to software systems capable of processing digital permit applications, virtual inspections, electronic review, and capacity for video storage.

NEW SECTION. **Sec. 4.** A new section is added to chapter 36.70B RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the department of commerce must convene a digital permitting process work group to examine potential license and permitting software for local governments to encourage streamlined and efficient permit review.

(2) The department of commerce, in consultation with the association of Washington cities and Washington state association of counties, shall appoint members to the work group representing groups including but not limited to:

- (a) Cities and counties;
- (b) Building industries; and
- (c) Building officials.

(3) The department of commerce must convene the first meeting of the work group by August 1, 2022. The department

must submit a final report to the governor and the appropriate committees of the legislature by August 1, 2023. The final report must:

(a) Evaluate the existing need for digital permitting systems;

(b) Review barriers preventing local jurisdictions from accessing or adopting digital permitting systems;

(c) Evaluate the benefits and costs associated with a statewide permitting software system; and

(d) Provide budgetary, administrative policy, and legislative recommendations to increase the adoption of or establish a statewide system of digital permit review."

Correct the title.

Signed by Representatives Pollet, Chair; Duerr, Vice Chair; Goehner, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Berg; Robertson and Senn.

Referred to Committee on Appropriations.

February 23, 2022

SJM 8006 Prime Sponsor, Senator Hasegawa:
Concerning a national infrastructure bank.
Reported by Committee on Consumer
Protection & Business

MAJORITY recommendation: Do pass. Signed by Representatives Kirby, Chair; Walen, Vice Chair; Ryu and Santos.

MINORITY recommendation: Do not pass. Signed by Representatives Vick, Ranking Minority Member; Dufault, Assistant Ranking Minority Member and Corry.

Referred to Committee on Rules for second reading.

There being no objection, the bills and memorial listed on the day's committee reports under the fifth order of business were referred to the committees so designated.

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

MESSAGE FROM THE SENATE

February 23, 2022

Mme. SPEAKER:

The Senate has passed:

SUBSTITUTE SENATE BILL NO. 5651,

and the same is herewith transmitted.

Sarah Bannister, Secretary

RESOLUTION

HOUSE RESOLUTION NO. 2022-4655, by Representatives Slatter, Hansen, Wicks, Ryu, Paul, Morgan, Leavitt, Santos, Chopp, Simmons, and Chambers

WHEREAS, Jan Yoshiwara is retiring as executive director of the Washington State Board for Community and Technical Colleges on July 31, 2022; and

WHEREAS, Jan's retirement caps an honorable and impactful 44-year career serving Washington's community and technical college students and the 34 local colleges that serve them; and

WHEREAS, Jan is dedicated to providing higher education opportunities for people of all ages and backgrounds for whom a college credential can make the greatest change in the trajectory of their lives and the lives of their families; and

WHEREAS, Jan attended high school and college in California during a time of excitement, change, and social activism in the 1960s and early 1970s; and

WHEREAS, Jan was influenced by the civil rights movement and decided to work at the intersection of civil rights and higher education by serving students who may not have the same opportunities as others because of financial hardships, language barriers, race, or ethnicity; and

WHEREAS, Under Jan's leadership, Washington's community and technical college system put racial equity at the front and center of its mission; and

WHEREAS, Due to Jan's leadership, Washington's community and technical colleges are part of a national reform movement called "Guided Pathways" to increase retention and completion rates for all students, especially students of color; and

WHEREAS, Under Jan's visionary direction, Washington became one of the first states in the nation to offer applied bachelor's degrees, allowing students to build on 2-year professional degrees and earn bachelor's degrees close to home; and

WHEREAS, Jan was at the forefront of the community and technical college system's adoption of a performance-based funding model that awards colleges funds when students reach key momentum points leading to a credential; and

WHEREAS, Jan established a research division within the State Board to ensure the community and technical college system is transparent, accountable, and data-driven; and

WHEREAS, Jan's reforms are helping to move more students from K-12, through college, and into careers and

universities, thereby uplifting the lives of the people who live, work, and innovate in Washington; and

WHEREAS, Jan has shepherded the community and technical college system through sweeping changes with a mix of grace, expertise, and collaboration that has won the affection and respect of all those who work with her;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives express its deepest gratitude to Jan Yoshiwara for a life-long career serving students, colleges, employers, and communities in Washington state; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted to Jan Yoshiwara and members of the State Board for Community and Technical Colleges.

There being no objection, HOUSE RESOLUTION NO. 4655 was adopted.

RESOLUTION

HOUSE RESOLUTION NO. 2022-4656, by Representatives Wicks, Walen, Fitzgibbon, Chapman, Ryu, Dolan, Santos, and Morgan

WHEREAS, There are thousands of therapy animal teams serving in communities across the United States; and

WHEREAS, Therapy animal teams in Washington play an essential role in improving human health and well-being through the human-animal bond; and

WHEREAS, Therapy animal teams make millions of visits per year in settings such as hospitals, nursing homes, schools, and hospice; and

WHEREAS, Therapy animal teams interact with a variety of people in our communities across Washington including veterans, seniors, patients, students facing literacy challenges, and those approaching end of life; and

WHEREAS, These exceptional therapy animals who partner with their human companions bring comfort and healing to those in need;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives honor and encourage Washingtonians to celebrate our therapy animals and their human handlers; and

BE IT FURTHER RESOLVED, That the House of Representatives publicly salute the service of therapy animal teams in our Washington communities and in communities across the nation.

There being no objection, HOUSE RESOLUTION NO. 4656 was adopted.

RESOLUTION

HOUSE RESOLUTION NO. 2022-4657, by Representatives Fitzgibbon, Santos, Cody, Berry, Callan, Orwall, Chapman, Wicks, Thai, Walen, Ryu, Dolan, Pollet, Duerr, Valdez, Harris-Talley, Dufault, Gregerson, Morgan, Leavitt, Simmons, and Young

WHEREAS, On March 17th, during the annual celebration of the Feast of Saint Patrick, the Patron Saint of Ireland, Irish Americans join with men, women, and children of all other ethnic origins who, for one day, become Irish and celebrate Patrick and love Ireland; and

WHEREAS, On Saint Patrick's Day, all who wear green live for a day in the spirit of Saint Patrick, Bridget, and Columcille whose 1500th anniversary was in the last year; and

WHEREAS, Irish immigrants to the United States helped form the cultural foundation of the nation and those of Irish lineage today proudly sing support for Ireland; and

WHEREAS, The first documented Irish presence in the State of Washington dates to the expeditions of Captain Vancouver and the Lewis and Clark Corps of Discovery; and

WHEREAS, Spokane has the second highest percentage of Irish ancestry of any major city in the United States; and

WHEREAS, We celebrate the establishment of the American Irish State Legislators Caucus with its aim of fostering and strengthening the longstanding relationship that exists between the United States of America and Ireland to the mutual benefit of both countries with leadership in all 50 states; and

WHEREAS, The songs of Ireland are the tragic songs of love and the joyous songs of battle: The nostalgic reveries of the sorrows and the glories that are the Emerald Isle; and the lamentations of life's myriad travails and the odes to joy and the life eternal;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives commemorate the celebration of the Feast of St. Patrick, the Patron Saint of Ireland; and

BE IT FURTHER RESOLVED, That the Chief Clerk be, and hereby is, authorized and directed to transmit a duly certified copy of this resolution to Senator Mark Daly, chair of the Senate of Ireland, which on this year celebrates its 100th anniversary of the National Co-Chairs of the American Irish State Legislators Caucus, Speaker Robin Vos of Wisconsin, Assemblywoman Carol Murphy of New Jersey, Representative Killian Timoney of Kentucky, Representative Fran Hurley of Illinois, Senator Shannon O'Brien of Montana, and Senator Mia Costello of Alaska.

There being no objection, HOUSE RESOLUTION NO. 4657 was adopted.

RESOLUTION

HOUSE RESOLUTION NO. 2022-4659, by Representatives Morgan, Wicks, Pollet, Fitzgibbon, Senn, Sells, and Leavitt

WHEREAS, Mr. Ester Wilfong committed his life to educating the children of Washington state, serving as a sixth-grade teacher in Central Kitsap schools from 1952 to 1959; and

WHEREAS, From 1959 to 1982 Mr. Wilfong served as a teacher and administrator in Tacoma Public Schools; and

WHEREAS, Mr. Wilfong continued his service after retirement by mentoring the next generation of school principals; and

WHEREAS, As a teacher, Mr. Wilfong was popular with his students, developing a well-earned reputation as an excellent faculty leader; and

WHEREAS, Between 1968 and 1969, Mr. Wilfong served as the President of the Washington Education Association; and

WHEREAS, Mr. Wilfong served on the Board of Directors, including as a member of the Executive Committee for the National Education Association; and

WHEREAS, In 1982 Mr. Wilfong joined the Washington State School Retirees Association leading efforts to improve the lives of senior citizens; and

WHEREAS, Mr. Wilfong was an active member of the Tacoma Urban League, Tacoma Philharmonic, NAACP, Metropolitan Development Council, Washington State Human Rights Commission, Tacoma Volunteer Bureau, Goodwill Business Advisory Council, and Minority Concerns Task Force, and Chair of the Tacoma Planning Commission; and

WHEREAS, Mr. Wilfong traveled Pierce County registering citizens to vote, later to be named Educator Citizen of the Year by Tacoma Public Schools; and

WHEREAS, Mr. Wilfong achieved all his success in spite of barriers from explicit racism, having been dismissed from his first teaching job due to the color of his skin;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives recognize Mr. Ester Wilfong for his service, dedication, and commitment to the people of Washington state; and

BE IT FURTHER RESOLVED, That a copy of this resolution be immediately transmitted by the Chief Clerk of the House of Representatives to the family of Mr. Ester Wilfong.

There being no objection, HOUSE RESOLUTION NO. 4659 was adopted.

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

SUPPLEMENTAL REPORTS OF STANDING COMMITTEES

February 22, 2022

HB 2119 Prime Sponsor, Representative Fey: Addressing transportation resources. Reported by Committee on Transportation

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Fey, Chair; Wylie, 1st Vice Chair; Bronoske, 2nd Vice Chair; Ramos, 2nd Vice

Chair; Berry; Chapman; Duerr; Entenman; Hackney; Ramel; Riccelli; Slatter; Taylor; Valdez and Wicks.

MINORITY recommendation: Do not pass. Signed by Representatives Barkis, Ranking Minority Member; Eslick, Assistant Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Volz, Assistant Ranking Minority Member; Dent; Donaghy; Goehner; Griffey; Klicker; McCaslin; Orcutt; Paul; Sutherland and Walsh.

Referred to Committee on Rules for second reading.

February 23, 2022

SSB 5411 Prime Sponsor, Committee on Agriculture, Water, Natural Resources & Parks: Establishing a programmatic safe harbor agreement on forestlands for northern spotted owls. Reported by Committee on Rural Development, Agriculture & Natural Resources

MAJORITY recommendation: Do pass. Signed by Representatives Chapman, Chair; Shewmake, Vice Chair; Chandler, Ranking Minority Member; Dent, Assistant Ranking Minority Member; Fitzgibbon; Klicker; Kloba; Kretz; Lekanoff; McEntire; Morgan; Orcutt; Ramos; Schmick and Springer.

Referred to Committee on Appropriations.

February 23, 2022

2SSB 5532 Prime Sponsor, Committee on Ways & Means: Establishing a prescription drug affordability board. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

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

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

(2) "Biological product" has the same meaning as in 42 U.S.C. Sec. 262(i)(1).

(3) "Biosimilar" has the same meaning as in 42 U.S.C. Sec. 262(i)(2).

(4) "Board" means the prescription drug affordability board.

(5) "Excess costs" means:

(a) Costs of appropriate utilization of a prescription drug that exceed the

therapeutic benefit relative to other alternative treatments; or

(b) Costs of appropriate utilization of a prescription drug that are not sustainable to public and private health care systems over a 10-year time frame.

(6) "Generic drug" has the same meaning as in RCW 69.48.020.

(7) "Health carrier" or "carrier" has the same meaning as in RCW 48.43.005.

(8) "Manufacturer" means a person, corporation, or other entity engaged in the manufacture of prescription drugs sold in or into Washington state. "Manufacturer" does not include a private label distributor or retail pharmacy that sells a drug under the retail pharmacy's store, or a prescription drug repackager.

(9) "Prescription drug" means a drug regulated under chapter 69.41 or 69.50 RCW, including generic, brand name, specialty drugs, and biological products.

NEW SECTION. Sec. 2. PRESCRIPTION DRUG AFFORDABILITY BOARD. (1) The prescription drug affordability board is established, to include five members who have expertise in health care economics or clinical medicine appointed by the governor.

(2) Board members shall serve for a term of five years and members may be reappointed by the governor for additional terms.

(3) No board member or advisory group member may be an employee of, a board member of, or consultant to a prescription drug manufacturer, pharmacy benefit manager, health carrier, prescription drug wholesale distributor, or related trade association, except that a representative from the prescription drug industry serving on an advisory group may be an employee, consultant, or board member of a prescription drug manufacturer or related trade association and shall not be deemed to have a conflict of interest pursuant to subsection (4) of this section.

(4)(a) Board members, advisory group members, staff members, and contractors providing services on behalf of the board shall recuse themselves from any board activity in any case in which they have a conflict of interest.

(b) For the purposes of this section, a conflict of interest means an

association, including a financial or personal association, that has the potential to bias or appear to bias an individual's decisions in matters related to the board or the activities of the board.

(5) The board shall establish advisory groups consisting of relevant stakeholders, including but not limited to patients and patient advocates for the condition treated by the drug and one member who is a representative of the prescription drug industry, for each drug affordability review conducted by the board pursuant to section 4 of this act. Advisory group members are immune from civil liability for any official act performed in good faith as a member of the group.

(6) The authority shall provide administrative support to the board and any advisory group of the board and shall adopt rules governing their operation that shall include how and when the board will use and discuss confidential information that is exempt from public disclosure.

(7) Board members shall be compensated for participation in the work of the board in accordance with a personal services contract to be executed after appointment and before commencement of activities related to the work of the board.

(8) A simple majority of the board's membership constitutes a quorum for the purpose of conducting business.

(9) All meetings of the board must be open and public, except that the board may hold executive sessions to the extent permitted by chapter 42.30 RCW.

(10) The board may not hold its first meeting until at least one year after the authority publishes its first report on the impact that drug costs, rebates, and other discounts have on health care premiums pursuant to RCW 43.71C.100.

(11) The board must coordinate and collaborate with the authority, other boards, work groups, and commissions related to prescription drug costs and emerging therapies, including but not limited to the health care cost transparency board established in chapter 70.390 RCW, and the universal health care commission established in RCW 41.05.840. All coordination and collaboration by the board pursuant to

this subsection must comply with chapter 42.30 RCW, the open public meetings act.

(12) The board may collaborate with prescription drug affordability boards established in other states.

NEW SECTION. Sec. 3. AUTHORITY TO REVIEW DRUG PRICES. By June 30, 2023, and annually thereafter, utilizing data collected pursuant to chapter 43.71C RCW, the all-payer health care claims database, or other data deemed relevant by the board, the board must identify prescription drugs that have been on the market for at least four years, are dispensed at a retail, specialty, or mail-order pharmacy, are not designated by the United States food and drug administration under 21 U.S.C. Sec. 360bb as a drug solely for the treatment of a rare disease or condition, and meet the following thresholds:

(1) Brand name prescription drugs and biologic products that:

(a) Have a wholesale acquisition cost of \$60,000 or more per year or course of treatment lasting less than one year; or

(b) Have a price increase of 15 percent or more in any 12-month period or for a course of treatment lasting less than 12 months, or a 50 percent cumulative increase over three years;

(2) A biosimilar product with an initial wholesale acquisition cost that is not at least 15 percent lower than the reference biological product; and

(3) Generic drugs with a wholesale acquisition cost of \$100 or more for a 30-day supply or less that has increased in price by 200 percent or more in the preceding 12 months.

NEW SECTION. Sec. 4. AFFORDABILITY REVIEWS. (1) The board may choose to conduct an affordability review of up to 24 prescription drugs per year identified pursuant to section 3 of this act. When deciding whether to conduct a review, the board shall consider:

(a) The class of the prescription drug and whether any therapeutically equivalent prescription drugs are available for sale;

(b) Input from relevant advisory groups established pursuant to section 2 of this act; and

(c) The average patient's out-of-pocket cost for the drug.

(2) For prescription drugs chosen for an affordability review, the board must determine whether the prescription drug has led or will lead to excess costs to patients. The board may examine publicly available information as well as collect confidential and proprietary information from the prescription drug manufacturer and other relevant sources.

(3) A manufacturer must submit all requested information to the board within 30 days of the request.

(4) The authority may assess a fine of up to \$100,000 against a manufacturer for each failure to comply with an information request from the board. The process for the assessment of a fine under this subsection shall be established by the authority in rule and is subject to review under the administrative procedure act, chapter 34.05 RCW.

(5) When conducting a review, the board shall consider:

(a) The relevant factors contributing to the price paid for the prescription drug, including the wholesale acquisition cost, discounts, rebates, or other price concessions;

(b) The average patient copay or other cost sharing for the drug;

(c) The effect of the price on consumers' access to the drug in the state;

(d) Orphan drug status;

(e) The dollar value and accessibility of patient assistance programs offered by the manufacturer for the drug;

(f) The price and availability of therapeutic alternatives;

(g) Input from:

(i) Patients affected by the condition or disease treated by the drug; and

(ii) Individuals with medical or scientific expertise related to the condition or disease treated by the drug;

(h) Any other information the drug manufacturer or other relevant entity chooses to provide;

(i) The impact of pharmacy benefit manager policies on the price consumers pay for the drug; and

(j) Any other relevant factors as determined by the board.

(6) In performing an affordability review of a drug the board may consider the following factors:

- (a) Life-cycle management;
- (b) The average cost of the drug in the state;
- (c) Market competition and context;
- (d) Projected revenue;
- (e) Off-label usage of the drug; and
- (f) Any additional factors identified by the board.

(7) All information collected by the board pursuant to this section is confidential and not subject to public disclosure under chapter 42.56 RCW.

(8) The board shall publicize which prescription drugs are subject to an affordability review before the review begins.

NEW SECTION. **Sec. 5.** UPPER PAYMENT LIMITS. (1) The authority must adopt rules setting forth a methodology established by the board for setting upper payment limits for prescription drugs the board has determined have led or will lead to excess costs based on its affordability review. Each year, the board may set an upper payment limit for up to 12 prescription drugs.

(2) The methodology must take into consideration:

- (a) The cost of administering the drug;
- (b) The cost of delivering the drug to patients;
- (c) The status of the drug on the drug shortage list published by the United States food and drug administration; and
- (d) Other relevant administrative costs related to the production and delivery of the drug.

(3) The methodology determined by the board must not use quality-adjusted life years that take into account a patient's age or severity of illness or disability to identify subpopulations for which a prescription drug would be less cost-effective. For any prescription drug that extends life, the board's analysis of cost-effectiveness may not employ a measure or metric which assigns a reduced value to the life extension provided by a treatment based on a preexisting disability or chronic health condition of

the individuals whom the treatment would benefit.

(4) Before setting an upper payment limit for a drug, the board must post notice of the proposed upper payment limit on the authority's website, including an explanation of the factors considered when setting the proposed limit and instructions to submit written comment. The board must provide 30 days to submit public comment.

(5) The board must monitor the supply of drugs for which it sets an upper payment limit and may suspend that limit if there is a shortage of the drug in the state.

(6) An upper payment limit for a prescription drug established by the board applies to all purchases of the drug by any entity and reimbursements for a claim for the drug by a health carrier, or a health plan offered under chapter 41.05 RCW, when the drug is dispensed or administered to an individual in the state in person, by mail, or by other means.

(7) An employer-sponsored self-funded plan may elect to be subject to the upper payment limits as established by the board.

(8) The board must establish an effective date for each upper payment limit, provided that the date is at least six months after the adoption of the upper payment limit and applies only to purchases, contracts, and plans that are issued on or renewed after the effective date.

(9) Any entity affected by a decision of the board may request an appeal within 30 days of the board's decision, and the board must rule on the appeal within 60 days. Board rulings are subject to judicial review pursuant to chapter 34.05 RCW.

(10) For any upper payment limit set by the board, the board must notify the manufacturer of the drug and the manufacturer must inform the board if it is able to make the drug available for sale in the state and include a rationale for its decision. The board must annually report to the relevant committees of the legislature detailing the manufacturers' responses.

(11) The board may reassess the upper payment limit for any drug annually based on current economic factors.

(12) The board may not establish an upper payment limit for any prescription drug before January 1, 2027.

(13) (a) Any individual denied coverage by a health carrier for a prescription drug because the drug was unavailable due to an upper payment limit established by the board, may seek review of the denial pursuant to RCW 48.43.530 and 48.43.535.

(b) If it is determined that the prescription drug should be covered based on medical necessity, the carrier may disregard the upper payment limit and must provide coverage for the drug.

NEW SECTION. Sec. 6. USE OF SAVINGS.

(1) Any savings generated for a health plan, as defined in RCW 48.43.005, or a health plan offered under chapter 41.05 RCW that are attributable to the establishment of an upper payment limit established by the board must be used to reduce costs to consumers, prioritizing the reduction of out-of-pocket costs for prescription drugs.

(2) By January 1, 2024, the board must establish a formula for calculating savings for the purpose of complying with this section.

(3) By March 1st of the year following the effective date of the first upper payment limit, and annually thereafter, each state agency and health carrier issuing a health plan in the state must submit a report to the board describing the savings in the previous calendar year that were attributable to upper payment limits set by the board and how the savings were used to satisfy the requirements of subsection (1) of this section.

NEW SECTION. Sec. 7. MANUFACTURER WITHDRAWAL FROM THE MARKET.

(1) Any manufacturer that intends to withdraw a prescription drug from sale or distribution within the state because the board has established an upper payment limit for that drug shall provide a notice of withdrawal in writing indicating the drug will be withdrawn because of the establishment of the upper payment limit at least 180 days before the withdrawal to the office of the insurance commissioner, the authority, and any entity in the state with which the manufacturer has a contract for the sale or distribution of the drug.

(2) If a manufacturer chooses to withdraw the prescription drug from the state, it shall be prohibited from

selling that drug in the state for a period of three years.

(3) A manufacturer that has withdrawn a drug from the market may petition the authority, in a form and manner determined by the authority in rule, to reenter the market before the expiration of the three-year ban if it agrees to make the drug available for sale in compliance with the upper payment limit.

NEW SECTION. Sec. 8. RULE MAKING. The authority may adopt any rules necessary to implement this chapter.

NEW SECTION. Sec. 9. A new section is added to chapter 48.43 RCW to read as follows:

(1) For health plans issued or renewed on or after January 1, 2024, if the prescription drug affordability board, as established in chapter 70.--- RCW (the new chapter created in section 11 of this act), establishes an upper payment limit for a prescription drug pursuant to section 5 of this act, a carrier must provide sufficient information, as determined by the commissioner, to indicate that reimbursement for a claim for that prescription drug will not exceed the upper payment limit for the drug established by the board.

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

Sec. 10. RCW 43.71C.100 and 2019 c 334 s 10 are each amended to read as follows:

(1) The authority shall compile and analyze the data submitted by health carriers, pharmacy benefit managers, manufacturers, and pharmacy services administrative organizations pursuant to this chapter and prepare an annual report for the public and the legislature synthesizing the data to demonstrate the overall impact that drug costs, rebates, and other discounts have on health care premiums.

(2) The data in the report must be aggregated and must not reveal information specific to individual health carriers, pharmacy benefit managers, pharmacy services administrative organizations, individual prescription drugs, individual classes of prescription drugs, individual manufacturers, or discount amounts paid in connection with individual prescription drugs.

(3) Beginning January 1, 2021, and by each January 1st thereafter, the authority must publish the report on its web site.

(4) Except for the report, and as provided in subsection (5) of this section, the authority shall keep confidential all data submitted pursuant to RCW 43.71C.020 through 43.71C.080.

(5) For purposes of public policy, upon request of a legislator, the authority must provide all data provided pursuant to RCW 43.71C.020 through 43.71C.080 and any analysis prepared by the authority. Any information provided pursuant to this subsection must be kept confidential within the legislature and may not be publicly released.

(6) For the purpose of reviewing drug prices and conducting affordability reviews, the prescription drug affordability board, as established in chapter 70.--- RCW (the new chapter created in section 11 of this act), and the health care cost transparency board, established in chapter 70.390 RCW, may access all data collected pursuant to RCW 43.71C.020 through 43.71C.080 and any analysis prepared by the authority.

(7) The data collected pursuant to this chapter is not subject to public disclosure under chapter 42.56 RCW. Any information provided pursuant to this section must be kept confidential and may not be publicly released. Recipients of data under subsection (6) of this section shall:

(a) Follow all rules adopted by the authority regarding appropriate data use and protection; and

(b) Acknowledge that the recipient is responsible for any liability arising from misuse of the data and that the recipient does not have any conflicts under the ethics in public service act that would prevent the recipient from accessing or using the data.

NEW SECTION. Sec. 11. Sections 1 through 8 of this act constitute a new chapter in Title 70 RCW.

Sec. 12. RCW 42.30.110 and 2019 c 162 s 2 are each amended to read as follows:

(1) Nothing contained in this chapter may be construed to prevent a governing body from holding an executive session during a regular or special meeting:

(a)(i) To consider matters affecting national security;

(ii) To consider, if in compliance with any required data security breach disclosure under RCW 19.255.010 and 42.56.590, and with legal counsel available, information regarding the infrastructure and security of computer and telecommunications networks, security and service recovery plans, security risk assessments and security test results to the extent that they identify specific system vulnerabilities, and other information that if made public may increase the risk to the confidentiality, integrity, or availability of agency security or to information technology infrastructure or assets;

(b) To consider the selection of a site or the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price;

(c) To consider the minimum price at which real estate will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreased price. However, final action selling or leasing public property shall be taken in a meeting open to the public;

(d) To review negotiations on the performance of publicly bid contracts when public knowledge regarding such consideration would cause a likelihood of increased costs;

(e) To consider, in the case of an export trading company, financial and commercial information supplied by private persons to the export trading company;

(f) To receive and evaluate complaints or charges brought against a public officer or employee. However, upon the request of such officer or employee, a public hearing or a meeting open to the public shall be conducted upon such complaint or charge;

(g) To evaluate the qualifications of an applicant for public employment or to review the performance of a public employee. However, subject to RCW 42.30.140(4), discussion by a governing body of salaries, wages, and other conditions of employment to be generally applied within the agency shall occur in a meeting open to the public, and when a governing body elects to take final

action hiring, setting the salary of an individual employee or class of employees, or discharging or disciplining an employee, that action shall be taken in a meeting open to the public;

(h) To evaluate the qualifications of a candidate for appointment to elective office. However, any interview of such candidate and final action appointing a candidate to elective office shall be in a meeting open to the public;

(i) To discuss with legal counsel representing the agency matters relating to agency enforcement actions, or to discuss with legal counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency.

This subsection (1)(i) does not permit a governing body to hold an executive session solely because an attorney representing the agency is present. For purposes of this subsection (1)(i), "potential litigation" means matters protected by RPC 1.6 or RCW 5.60.060(2)(a) concerning:

(i) Litigation that has been specifically threatened to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party;

(ii) Litigation that the agency reasonably believes may be commenced by or against the agency, the governing body, or a member acting in an official capacity; or

(iii) Litigation or legal risks of a proposed action or current practice that the agency has identified when public discussion of the litigation or legal risks is likely to result in an adverse legal or financial consequence to the agency;

(j) To consider, in the case of the state library commission or its advisory bodies, western library network prices, products, equipment, and services, when such discussion would be likely to adversely affect the network's ability to conduct business in a competitive economic climate. However, final action on these matters shall be taken in a meeting open to the public;

(k) To consider, in the case of the state investment board, financial and commercial information when the information relates to the investment of public trust or retirement funds and when public knowledge regarding the discussion would result in loss to such funds or in private loss to the providers of this information;

(l) To consider proprietary or confidential nonpublished information related to the development, acquisition, or implementation of state purchased health care services as provided in RCW 41.05.026;

(m) To consider in the case of the life sciences discovery fund authority, the substance of grant applications and grant awards when public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information;

(n) To consider in the case of a health sciences and services authority, the substance of grant applications and grant awards when public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information;

(o) To consider information regarding staff privileges or quality improvement committees under RCW 70.41.205;

(p) To consider proprietary or confidential data collected or analyzed pursuant to chapter 70.--- RCW (the new chapter created in section 11 of this act).

(2) Before convening in executive session, the presiding officer of a governing body shall publicly announce the purpose for excluding the public from the meeting place, and the time when the executive session will be concluded. The executive session may be extended to a stated later time by announcement of the presiding officer."

Correct the title.

Signed by Representatives Cody, Chair; Bateman, Vice Chair; Bronoske; Davis; Macri; Riccelli; Simmons; Stonier and Tharinger.

MINORITY recommendation: Without recommendation. Signed by Representatives Caldier, Assistant Ranking Minority Member and Maycumber.

MINORITY recommendation: Do not pass. Signed by Representatives Schmick, Ranking Minority Member; Harris; Rude and Ybarra.

Referred to Committee on Appropriations.

February 23, 2022

ESSB 5593 Prime Sponsor, Committee on Housing & Local Government: Concerning urban growth area boundaries. Reported by Committee on Local Government

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 36.70A.130 and 2020 c 113 s 1 and 2020 c 20 s 1026 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-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-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. The department shall provide by rule how such patterns of

development may be determined, and may adopt any other rules necessary to effectuate this subsection (3)(c). Any revisions to an urban growth area must be made in accordance with countywide planning policies adopted pursuant to RCW 36.70A.210, and may only be made 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;

(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; and

(ix) Any cities within the urban growth area that is to be revised must have taken actions to increase the buildable residential land within the existing urban growth area boundary, including authorizing the development of, at a minimum, accessory dwelling units throughout the residential areas of the urban growth area, and of duplexes, cottage apartments, townhouses, or row houses in at least one designated residential area within the urban growth area.

(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 or before June 30, 2024, and every eight years thereafter, for King, Kitsap, Pierce, and Snohomish counties and the cities within those counties;

(b) On or before June 30, 2025, and every eight 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 eight 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 eight 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) (~~((a)(ii) through (iv) [(b) through (d)])~~) (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) (~~((a)(ii) through (iv) [(b) through (d)])~~) (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 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 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."

Correct the title.

Signed by Representatives Pollet, Chair; Duerr, Vice Chair; Goehner, Ranking Minority Member; Berg and Senn.

MINORITY recommendation: Without recommendation. Signed by Representatives Griffey, Assistant Ranking Minority Member and Robertson.

Referred to Committee on Rules for second reading.

February 23, 2022

SB 5596

Prime Sponsor, Senator Trudeau: Conforming disclosure restrictions for mental health counselors, marriage and family therapists, and social workers to the requirements of the Uniform Health Care Information Act. Reported by Committee on Civil Rights & Judiciary

MAJORITY recommendation: Do pass. Signed by Representatives Hansen, Chair; Simmons, Vice Chair; Davis; Entenman; Goodman; Kirby; Orwall; Peterson; Thai; Valdez and Walen.

MINORITY recommendation: Without recommendation. Signed by Representatives Gilday, Assistant Ranking Minority Member and Klippert.

MINORITY recommendation: Do not pass. Signed by Representatives Walsh, Ranking Minority Member; Graham, Assistant Ranking Minority Member; Abbarno and Ybarra.

Referred to Committee on Rules for second reading.

February 23, 2022

E2SSB 5597

Prime Sponsor, Committee on Ways & Means: Concerning the Washington voting rights act. Reported by Committee on State Government & Tribal Relations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"PART I**VOTE DILUTION PROHIBITION AND COST RECOVERY MECHANISM**

Sec. 1. RCW 29A.92.020 and 2018 c 113 s 104 are each amended to read as follows:

~~((As)) It is a violation of this chapter for a political subdivision to impose a method of electing its governing body that constitutes vote dilution as provided in RCW 29A.92.030 ((, no method of electing the governing body of a political subdivision may be imposed or applied in a manner that impairs the ability of members of a protected class or classes to have an equal opportunity to elect candidates of their choice as a result of the dilution or abridgment of the rights of voters who are members of a protected class or classes)).~~

Sec. 2. RCW 29A.92.030 and 2019 c 64 s 7 are each amended to read as follows:

(1) A political subdivision ~~((is))~~ commits vote dilution and shall be found 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 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. 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. 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.

(5) 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) 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.

(7) A class of citizens protected by this section may include a cohesive coalition of members of different racial, ethnic, or language minority groups.

Sec. 3. 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, or an organization whose membership includes or is likely to include a voter in the

jurisdiction and who resides 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. 4. 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 or organization whose membership includes or is likely to include a voter in the jurisdiction and who resides 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 cohesive 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.

Sec. 5. 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. ~~((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 has a dilutive effect on the protected class.

(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 have a dilutive effect on the protected class before court approval.

(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. 6. 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 or organization 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 or organization'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 or organization 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 support 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 or organization who sent the notice, not to exceed \$50,000.

Sec. 7. 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 or organization whose membership includes or is likely to include a voter in the jurisdiction and who resides 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 or organizations 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 or organizations 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 support 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 or organizations who sent the notices, not to exceed \$50,000.

Sec. 8. 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.

(4) In an action in which a political subdivision has, through the preclearance procedures in section 9 of this act, obtained a declaratory judgment from a superior court or a certification

of no objection from the attorney general before the action was filed, the court may consider the political subdivision's reliance on preclearance when awarding reasonable attorneys' fees.

PART II

PRECLEARANCE

NEW SECTION. Sec. 9. A new section is added to chapter 29A.92 RCW to read as follows:

(1) For purposes of this section and section 10 of this act:

(a) "Covered jurisdiction" means:

(i) A county in which, based on data from the American community survey:

(A) The proportion of members of any protected class consisting of at least 10,000 voting age citizens or whose members comprise at least 10 percent of the citizen voting age population of the county that has an income below the poverty level exceeds that of the total population of the county as a whole by at least 5 percent at any point within the previous ten years;

(B) The proportion of members of any protected class consisting of at least 10,000 voting age citizens or whose members comprise at least 10 percent of the citizen voting age population of the county that is considered uninsured in terms of health coverage exceeds that of the total population of the county as a whole by at least 5 percent at any point within the previous ten years; or

(C) The proportion of members of any protected class consisting of at least 10,000 voting age citizens or whose members comprise at least 10 percent of the citizen voting age population of the county that is at least 25 years of age and does not have a high school diploma or its equivalent exceeds that of the total population of the county as a whole by at least 5 percent at any point within the previous ten years;

(ii) A school district with a difference of at least 10 percent between the graduation rates of students of any protected class and the district as a whole;

(iii) A political subdivision that, within the previous 25 years, has become subject to a court order or government enforcement action based upon a finding of any violation of this chapter, the federal voting rights act, the Fifteenth

Amendment to the United States Constitution, or a voting-related violation of the Fourteenth Amendment to the United States Constitution; or

(iv) A political subdivision that, within the previous five years, has failed to comply with its obligations to provide data or information to the repository, as stated in section 11 of this act.

(b) "Covered practice" means:

(i) Any change to the method of election of members of a governing body by adding seats elected at large or by converting one or more seats elected from a single-member district to one or more at large seats or seats from a multimember district;

(ii) Any change, or series of changes within a 12-month period, to the boundaries of the covered jurisdiction that reduces by more than five percentage points the proportion of the jurisdiction's voting age population that is composed of members of a single racial or language-minority group, as determined by the most recent American community survey data;

(iii) Any change to the boundaries of election districts or wards in the covered jurisdiction;

(iv) Any change that restricts the ability of any person to provide interpreter services to voters in any language other than English or which limits or impairs the creation or distribution of voting materials in any language other than English; or

(v) Any change to the covered jurisdiction's plan of government, including a change to or in the framing of a jurisdiction's charter.

(2) (a) Prior to enacting or seeking to administer any voting qualification or prerequisite to voting, or any standard, practice, or procedure with respect to voting, that is a covered practice, the governing body of a covered jurisdiction shall either:

(i) Institute an action in Thurston county superior court for a declaratory judgment or, if the jurisdiction is located within Thurston county, institute an action in King county superior court for a declaratory judgment; or

(ii) Submit such covered practice to the attorney general for issuance of a certification that no objection exists to the enactment or administration by the covered jurisdiction of the covered practice.

(b) The superior court shall issue the declaratory judgment or, if applicable, the attorney general shall issue a certification of no objection, only if the covered practice:

(i) Does not violate RCW 29A.92.020; and

(ii) Will not result in the retrogression in the position of persons based on race, color, or membership in a language-minority group such that the covered practice does not have the purpose or effect of diminishing the ability of any citizen on account of race, color, or membership in a language-minority group to participate in the electoral process or elect their preferred candidates of choice.

(c) The attorney general, or any person whose opportunity to vote is affected by a covered practice that has been enacted or administered by a covered jurisdiction, may institute an action in superior court to compel the governing body of the jurisdiction to institute an action for a declaratory judgment or to seek issuance of a certification of no objection pursuant to this subsection.

(3) (a) No qualification, prerequisite, standard, practice, or procedure that is a covered practice is effective until the superior court has entered a declaratory judgment or the attorney general has issued a certification of no objection.

(b) A certification of no objection is deemed to have been issued if:

(i) The attorney general does not issue an objection within 60 days of the governing body's submission of any other covered policy; or

(ii) The attorney general affirmatively indicates that no such objection will be made, upon a showing of good cause to facilitate an expedited approval within 60 days of the governing body's submission.

(c) An affirmative indication by the attorney general that no objection will be made, the attorney general's failure to object, or a declaratory judgment entered by the superior court pursuant to this section does not bar a subsequent

action to enjoin enforcement of any qualification, prerequisite, standard, practice, or procedure.

(d) If the attorney general affirmatively indicates that no objection will be made within the 60-day period following the receipt of the governing body's submission, the attorney general may reserve the right to reexamine the submission if additional information that would otherwise require objection in accordance with this section comes to his or her attention during the remainder of the 60-day period.

(4) If the attorney general objects to a covered practice submitted by a covered jurisdiction, the governing body of such jurisdiction may file an appeal to the objection in Thurston county superior court.

(5) If the attorney general issues a certification of no objection to a covered practice submitted by a covered jurisdiction, any person whose opportunity to vote is affected by the covered practice may file an action in superior court to appeal the attorney general's issuance of a certification of no objection.

(6) In any action filed pursuant to this subsection, the superior court shall enjoin the enactment or administration of the covered practice that is the subject of the action unless it determines that the covered practice neither has the purpose or effect of denying or abridging the right to vote on account of race or color or membership in a language-minority group nor will it result in the retrogression in the position of members of a racial or ethnic group with respect to their effective exercise of the electoral franchise.

(7) As early as practicable each fifth calendar year, the secretary of state shall, in consultation with the attorney general, the office of financial management, and other relevant agencies, determine and notify those political subdivisions which qualify as covered jurisdictions pursuant to subsection (1) of this section, based on the most recent American community survey data or other census data. The attorney general shall publish the list of these counties, cities, and towns on a website established and maintained for this purpose. A determination made pursuant to this subsection is effective upon publication.

(8) This section expires June 30, 2029.

NEW SECTION. **Sec. 10.** A new section is added to chapter 29A.92 RCW to read as follows:

(1) No later than December 1, 2028, the attorney general shall prepare and transmit a report to the legislature on the activities conducted under and the effects of section 9 of this act. The report shall include, at a minimum, the following information:

(a)(i) The number of practices referred to the attorney general for a certification of no objection;

(ii) The number of instances in which the attorney general issued a certification of no objection;

(b) The number of instances in which covered jurisdictions sought a declaratory judgment in superior court for preclearance of a covered practice, and the outcomes of all such cases;

(c) The number of instances in which a claimant challenged a certification of no objection;

(d) The number of instances in which, after a certification of no objection was not issued, the covered jurisdiction:

(i) Challenged the determination in superior court; or

(ii) Modified the covered practice and sought a certification of no objection for the modified practice;

(e) The number of instances in which the attorney general instituted an action in superior court to compel a covered jurisdiction to institute an action for declaratory judgment or seek a certification of no objection for a covered practice;

(f) Other summary statistics regarding preclearance that categorize covered practices by practice type and jurisdiction type;

(g) A narrative summary of the overall outcomes of the preclearance requirements in section 9 of this act in the state;

(h) The fiscal impact of implementing the provisions of section 9 of this act on the office of the attorney general; and

(i) Any other information the attorney general believes is relevant to

evaluating the impacts of section 9 of this act.

(2) This section expires June 30, 2029.

PART III

DATA COLLECTION AND REQUIRED REPORTING

NEW SECTION. **Sec. 11.** A new section is added to chapter 29A.92 RCW to read as follows:

(1) There shall be established within the University of Washington a repository of the data necessary to assist the state and all political subdivisions with evaluating whether and to what extent existing laws and practices with respect to voting and elections are consistent with the public policy expressed in this title, implementing best practices in voting and elections to achieve the purposes of this title, and to investigate potential infringements upon the right to vote.

(2) The operation of the repository shall be the responsibility of the director of the repository, hereinafter referred to in this title as the "director," who shall be employed by the University of Washington with doctoral level expertise in demography, statistical analysis, and electoral systems. The director shall be appointed by the governor.

(3) The director shall appoint such staff as are necessary to implement and maintain the repository.

(4) The repository shall maintain in electronic format at least the following data and records, where available, for at least the previous 12-year period:

(a) Estimates of the total population, voting age population, and citizen voting age population by race, ethnicity, and language-minority groups, broken down to the election district and precinct level on a year-by-year basis for every political subdivision in the state, based on data from the United States census bureau, American community survey, or data of comparable quality collected by a public office;

(b) Election results at the precinct level for every statewide election and every election in every political subdivision;

(c) Regularly updated voter registration lists, voter history files, voting center locations, ballot drop box

locations, and student engagement hub locations for every election in every political subdivision;

(d) Contemporaneous maps, descriptions of boundaries, and shapefiles for election districts and precincts;

(e) Ballot rejection lists, curing lists, and reasoning for ballot rejection for every election in every political subdivision;

(f) Apportionment plans for every election in every political subdivision; and

(g) Any other data that the director deems advisable to maintain in furtherance of the purposes of this title.

(5) The director shall update the data in the repository no later than 30 business days after certification of each election as required by RCW 29A.60.190 or 29A.60.250.

(6) Except for any data, information, or estimates that identifies individual voters, the data, information, and estimates maintained by the repository shall be posted online and made available to the public at no cost.

(7) The repository shall prepare any estimates made pursuant to this section by applying the most advanced, peer-reviewed, and validated methodologies.

(8) On or before January 1, 2023, and every fifth year thereafter, the repository shall publish on its website and transmit to the state for dissemination to county auditors secretary of a list of political subdivisions required pursuant to section 203 of the federal voting rights act to provide assistance to members of language-minority groups and each language in which those political subdivisions are required to provide assistance. Each county auditor shall transmit the list described herein to all political subdivisions within their jurisdiction.

(9) Upon the certification of election results and the completion of the voter history file after each election, the secretary of state shall transmit copies of:

(a) Election results at the election district level;

(b) Contemporaneous voter registration lists;

(c) Voter history files;

(d) Maps, descriptions, and shapefiles for election districts; and

(e) Lists of voting centers and student engagement hubs.

(10) Staff at the repository may provide nonpartisan technical assistance to political subdivisions, scholars, and the general public seeking to use the resources of the repository.

PART IV

PROVISIONS FOR COUNTIES

Sec. 12. RCW 36.32.010 and 1990 c 252 s 1 are each amended to read as follows:

There is established in each county in this state a board of county commissioners. Except as provided in RCW 36.32.020, 36.32.055, and 36.32.0552, each board of county commissioners shall consist of three qualified electors, two of whom shall constitute a quorum to do business.

Sec. 13. 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, including expanding from three to five commissioners, 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 districts shall be

designated as districts numbered one, two and three.

Sec. 14. RCW 36.32.030 and 2018 c 301 s 6 are each amended to read as follows:

(1) Except as provided otherwise in subsection (2) of this section, the terms of office of county commissioners shall be four years and shall extend until their successors are elected and qualified and assume office in accordance with RCW 29A.60.280. The terms of office of county commissioners shall be staggered so that either one or two commissioners are elected at a general election held in each even-numbered year.

(2) (a) At the general election held in 2022, any noncharter county with a population of four hundred thousand or more must elect county commissioners in accordance with a districting plan adopted under RCW 36.32.054. Any county commissioner whose term is set to expire on or after January 1, 2023, is subject to the new election in accordance with the districting plan. The county commissioners shall begin their terms of office on January 1, 2023, and such terms shall be staggered terms, as designated in the districting plan.

(b) A county expanding to five commissioners pursuant to RCW 29A.92.040 must elect county commissioners and stagger their terms as designated in its districting plan.

PART V

GENERAL PROVISIONS

Sec. 15. 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 to the extent such case law does not violate the spirit, intent, and elements of this chapter.

(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) "Crossover district" means a district where a protected class is a minority of the population but potentially large enough to elect candidates of choice with help from voters who are not members of the protected class who cross over to support a protected class's candidate of choice.

(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) "Federal voting rights act" means the federal voting rights act of 1965, 52 U.S.C. 10301 et seq.

(5) "Plan of government" has the meaning defined in RCW 35A.01.070 for cities operating under the optional municipal code, or the structure of elected officials serving executive and legislative functions in other jurisdictions.

(6) "Polarized voting" means voting in which there is a difference, as defined in case law regarding enforcement of the federal voting rights act ~~((7-52 U.S.C. 10301 et seq.))~~ in the choice of candidates or other electoral choices that are preferred by voters in a protected class, and in the choice of candidates and electoral choices that are preferred by voters in the rest of the electorate.

~~((4))~~ (7) "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))~~ (8) "Protected class" means a class of voters who are members of ((a)) any race, color, or language-minority group, as this class is referenced and defined in the federal voting rights act ((7-52 U.S.C. 10301 et seq)).

(9) "Retgression" means diminution of the ability of a protected class to

participate in the electoral process or elect candidates of their choice.

NEW SECTION. Sec. 16. 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. 17. Sections 1 through 4, 6 through 9, and 15 of this act take effect January 1, 2023."

Correct the title.

Signed by Representatives Valdez, Chair; Lekanoff, Vice Chair; Dolan and Gregerson.

MINORITY recommendation: Do not pass. Signed by Representatives Volz, Ranking Minority Member; Walsh, Assistant Ranking Minority Member and Graham.

Referred to Committee on Appropriations.

February 23, 2022

E2SSB 5600 Prime Sponsor, Committee on Ways & Means: Concerning the sustainability and expansion of state registered apprenticeship programs. Reported by Committee on College & Workforce Development

MAJORITY recommendation: Do pass. Signed by Representatives Slatter, Chair; Entenman, Vice Chair; Leavitt, Vice Chair; Hansen; Paul; Pollet and Sells.

MINORITY recommendation: Without recommendation. Signed by Representatives Chambers, Ranking Minority Member Jacobsen, Assistant Ranking Minority Member.

MINORITY recommendation: Do not pass. Signed by Representatives Chandler; Hoff and Kraft.

Referred to Committee on Appropriations.

February 23, 2022

E2SSB 5702 Prime Sponsor, Committee on Ways & Means: Requiring coverage for donor human milk. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 48.43 RCW to read as follows:

(1) For group health plans other than small group health plans issued or renewed on or after January 1, 2023, a health carrier shall provide coverage for medically necessary donor human milk for inpatient use when ordered by a licensed health care provider with prescriptive authority or an international board certified lactation consultant certified by the international board of lactation consultant examiners for an infant who is medically or physically unable to receive maternal human milk or participate in chest feeding or whose parent is medically or physically unable to produce maternal human milk in sufficient quantities or caloric density or participate in chest feeding, if the infant meets at least one of the following criteria:

(a) An infant birth weight of below 2,500 grams;

(b) An infant gestational age equal to or less than 34 weeks;

(c) Infant hypoglycemia;

(d) A high risk for development of necrotizing enterocolitis, bronchopulmonary dysplasia, or retinopathy of prematurity;

(e) A congenital or acquired gastrointestinal condition with long-term feeding or malabsorption complications;

(f) Congenital heart disease requiring surgery in the first year of life;

(g) An organ or bone marrow transplant;

(h) Sepsis;

(i) Congenital hypotonias associated with feeding difficulty or malabsorption;

(j) Renal disease requiring dialysis in the first year of life;

(k) Craniofacial anomalies;

(l) An immunologic deficiency;

(m) Neonatal abstinence syndrome;

(n) Any other serious congenital or acquired condition for which the use of pasteurized donor human milk and donor human milk derived products is medically

necessary and supports the treatment and recovery of the child; or

(o) Any baby still inpatient within 72 hours of birth without sufficient human milk available.

(2) Donor human milk covered under this section must be obtained from a milk bank that meets minimum standards adopted by the department of health pursuant to section 5 of this act.

(3) For purposes of this section:

(a) "Donor human milk" means human milk that has been contributed to a milk bank by one or more donors.

(b) "Milk bank" means an organization that engages in the procurement, processing, storage, distribution, or use of human milk contributed by donors.

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

Sec. 2. RCW 48.43.715 and 2019 c 33 s 9 are each amended to read as follows:

(1) 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 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 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 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 commissioner shall include coverage for donor human milk in the updated plan.

Sec. 3. RCW 41.05.017 and 2021 c 280 s 2 are each amended to read as follows:

Each health plan that provides medical insurance offered under this chapter, including plans created by insuring entities, plans not subject to the provisions of Title 48 RCW, and plans created under RCW 41.05.140, are subject to the provisions of RCW 48.43.500, 70.02.045, 48.43.505 through 48.43.535, 48.43.537, 48.43.545, 48.43.550, 70.02.110, 70.02.900, 48.43.190,

48.43.083, 48.43.0128, section 1 of this act, and chapter 48.49 RCW.

NEW SECTION. **Sec. 4.** A new section is added to chapter 74.09 RCW to read as follows:

(1) The authority shall provide coverage under this chapter for medically necessary donor human milk for inpatient use when ordered by a licensed health care provider with prescriptive authority or an international board certified lactation consultant certified by the international board of lactation consultant examiners for an infant who is medically or physically unable to receive maternal human milk or participate in chest feeding or whose parent is medically or physically unable to produce maternal human milk in sufficient quantities or caloric density or participate in chest feeding, if the infant meets at least one of the following criteria:

(a) An infant birth weight of below 2,500 grams;

(b) An infant gestational age equal to or less than 34 weeks;

(c) Infant hypoglycemia;

(d) A high risk for development of necrotizing enterocolitis, bronchopulmonary dysplasia, or retinopathy of prematurity;

(e) A congenital or acquired gastrointestinal condition with long-term feeding or malabsorption complications;

(f) Congenital heart disease requiring surgery in the first year of life;

(g) An organ or bone marrow transplant;

(h) Sepsis;

(i) Congenital hypotonias associated with feeding difficulty or malabsorption;

(j) Renal disease requiring dialysis in the first year of life;

(k) Craniofacial anomalies;

(l) An immunologic deficiency;

(m) Neonatal abstinence syndrome;

(n) Any other serious congenital or acquired condition for which the use of pasteurized donor human milk and donor human milk derived products is medically

necessary and supports the treatment and recovery of the child; or

(o) Any baby still inpatient within 72 hours of birth without sufficient human milk available.

(2) Donor human milk covered under this section must be obtained from a milk bank that meets minimum standards adopted by the department of health pursuant to section 5 of this act.

(3) The authority may require an enrollee to obtain expedited prior authorization to receive coverage for donor human milk as required under this section.

(4) In administering this program, the authority must seek any available federal financial participation under the medical assistance program, as codified at Title XIX of the federal social security act, the state children's health insurance program, as codified at Title XXI of the federal social security act, and any other federal funding sources that are now available or may become available.

(5) For purposes of this section:

(a) "Donor human milk" means human milk that has been contributed to a milk bank by one or more donors.

(b) "Milk bank" means an organization that engages in the procurement, processing, storage, distribution, or use of human milk contributed by donors.

NEW SECTION. **Sec. 5.** A new section is added to chapter 43.70 RCW to read as follows:

The department shall adopt standards for ensuring milk bank safety. The standards adopted by the department must, at a minimum, consider the clinical, evidence-based guidelines established by a national accrediting organization. The standards must address donor screening, milk handling and processing, and recordkeeping. The department shall also review and consider requiring additional testing standards, including but not limited to testing for the presence of viruses, bacteria, and prescription and nonprescription drugs in donated milk."

Correct the title.

Signed by Representatives Cody, Chair; Bateman, Vice Chair; Schmick, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; Bronoske; Davis;

Macri; Maycumber; Riccelli; Rude; Simmons; Stonier and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Harris and Ybarra.

Referred to Committee on Rules for second reading.

February 23, 2022

SSB 5723 Prime Sponsor, Committee on Health & Long Term Care: Concerning improving diversity in clinical trials. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass. Signed by Representatives Cody, Chair; Bateman, Vice Chair; Schmick, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; Bronoske; Davis; Harris; Macri; Maycumber; Riccelli; Rude; Simmons; Stonier; Tharinger and Ybarra.

Referred to Committee on Appropriations.

February 23, 2022

SB 5788 Prime Sponsor, Senator Pedersen: Concerning guardianship of minors. Reported by Committee on Civil Rights & Judiciary

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 11.130.225 and 2020 c 312 s 108 are each amended to read as follows:

(1) On its own, on motion when a guardianship petition is filed under RCW 11.130.190, or on petition by a person interested in a minor's welfare, including the minor, the court may appoint an emergency guardian for the minor if the court finds:

(a) Appointment of an emergency guardian is likely to prevent substantial harm to the minor's health, safety, or welfare; and

(b) No other person appears to have authority, ability, and the willingness to act ((in the circumstances)) to prevent substantial harm to the minor's health, safety, or welfare.

(2) The duration of authority of an emergency guardian for a minor may not exceed sixty days and the emergency guardian may exercise only the powers specified in the order of appointment. The emergency guardian's authority may be

extended once for not more than sixty days if the court finds that the conditions for appointment of an emergency guardian in subsection (1) of this section continue.

(3) Except as otherwise provided in subsection (4) of this section, reasonable notice of the date, time, and place of a hearing on a motion for or a petition for appointment of an emergency guardian for a minor must be given to:

(a) The minor, if the minor is twelve years of age or older;

(b) Any attorney appointed under RCW 11.130.200;

(c) Each parent of the minor;

(d) Any person, other than a parent, having care or custody of the minor; and

(e) Any other person the court determines.

(4) The court may appoint an emergency guardian for a minor without notice under subsection (3) of this section and a hearing only if the court finds from an affidavit or testimony that the minor's health, safety, or welfare will be substantially harmed before a hearing with notice on the appointment can be held. If the court appoints an emergency guardian without notice to an unrepresented minor or the attorney for a represented minor, notice of the appointment must be given not later than forty-eight hours after the appointment to the individuals listed in subsection (3) of this section. Not later than five days after the appointment, the court shall hold a hearing on the appropriateness of the appointment.

(5) Appointment of an emergency guardian under this section, with or without notice, is not a determination that a basis exists for appointment of a guardian under RCW 11.130.185.

(6) The court may remove an emergency guardian appointed under this section at any time. The emergency guardian shall make any report the court requires.

(7) Notwithstanding subsection (2) of this section, the court may extend an emergency guardianship pending the outcome of a full hearing under RCW 11.130.190 or 11.130.220.

(8) If a petition for guardianship under RCW 11.130.215 is pending, or is subsequently filed after a petition under

this section, the cases shall be linked or consolidated.

Sec. 2. RCW 13.04.030 and 2020 c 41 s 4 are each amended to read as follows:

(1) Except as provided in this section, the juvenile courts in this state shall have exclusive original jurisdiction over all proceedings:

(a) Under the interstate compact on placement of children as provided in chapter 26.34 RCW;

(b) Relating to children alleged or found to be dependent as provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.161;

(c) Relating to the termination of a parent and child relationship as provided in RCW 13.34.180 through 13.34.210;

(d) To approve or disapprove out-of-home placement as provided in RCW 13.32A.170;

(e) Relating to juveniles alleged or found to have committed offenses, traffic or civil infractions, or violations as provided in RCW 13.40.020 through 13.40.230, unless:

(i) The juvenile court transfers jurisdiction of a particular juvenile to adult criminal court pursuant to RCW 13.40.110;

(ii) The statute of limitations applicable to adult prosecution for the offense, traffic or civil infraction, or violation has expired;

(iii) The alleged offense or infraction is a traffic, fish, boating, or game offense, or traffic or civil infraction committed by a juvenile sixteen years of age or older and would, if committed by an adult, be tried or heard in a court of limited jurisdiction, in which instance the appropriate court of limited jurisdiction shall have jurisdiction over the alleged offense or infraction, and no guardian ad litem is required in any such proceeding due to the juvenile's age. If such an alleged offense or infraction and an alleged offense or infraction subject to juvenile court jurisdiction arise out of the same event or incident, the juvenile court may have jurisdiction of both matters. The jurisdiction under this subsection does not constitute "transfer" or a "decline" for purposes of RCW 13.40.110 (1) or (2) or (e)(i) of this subsection. Courts of limited jurisdiction which confine

juveniles for an alleged offense or infraction may place juveniles in juvenile detention facilities under an agreement with the officials responsible for the administration of the juvenile detention facility in RCW 13.04.035 and 13.20.060;

(iv) The alleged offense is a traffic or civil infraction, a violation of compulsory school attendance provisions under chapter 28A.225 RCW, or a misdemeanor, and a court of limited jurisdiction has assumed concurrent jurisdiction over those offenses as provided in RCW 13.04.0301; or

(v) The juvenile is sixteen or seventeen years old on the date the alleged offense is committed and the alleged offense is:

(A) A serious violent offense as defined in RCW 9.94A.030;

(B) A violent offense as defined in RCW 9.94A.030 and the juvenile has a criminal history consisting of: One or more prior serious violent offenses; two or more prior violent offenses; or three or more of any combination of the following offenses: Any class A felony, any class B felony, vehicular assault, or manslaughter in the second degree, all of which must have been committed after the juvenile's thirteenth birthday and prosecuted separately; or

(C) Rape of a child in the first degree.

(I) In such a case the adult criminal court shall have exclusive original jurisdiction, except as provided in (e)(v)(C)(II) and (III) of this subsection.

(II) The juvenile court shall have exclusive jurisdiction over the disposition of any remaining charges in any case in which the juvenile is found not guilty in the adult criminal court of the charge or charges for which he or she was transferred, or is convicted in the adult criminal court of an offense that is not also an offense listed in (e)(v) of this subsection. The juvenile court shall maintain residual juvenile court jurisdiction up to age twenty-five if the juvenile has turned eighteen years of age during the adult criminal court proceedings but only for the purpose of returning a case to juvenile court for disposition pursuant to RCW 13.40.300(3)(d).

(III) The prosecutor and respondent may agree to juvenile court jurisdiction and waive application of exclusive adult criminal jurisdiction in (e)(v)(A) through (C) of this subsection and remove the proceeding back to juvenile court with the court's approval.

If the juvenile challenges the state's determination of the juvenile's criminal history under (e)(v) of this subsection, the state may establish the offender's criminal history by a preponderance of the evidence. If the criminal history consists of adjudications entered upon a plea of guilty, the state shall not bear a burden of establishing the knowing and voluntariness of the plea;

(f) Under the interstate compact on juveniles as provided in chapter 13.24 RCW;

(g) Relating to termination of a diversion agreement under RCW 13.40.080, including a proceeding in which the divertee has attained eighteen years of age;

(h) Relating to court validation of a voluntary consent to an out-of-home placement under chapter 13.34 RCW, by the parent or Indian custodian of an Indian child, except if the parent or Indian custodian and child are residents of or domiciled within the boundaries of a federally recognized Indian reservation over which the tribe exercises exclusive jurisdiction; and

(i) Relating to petitions to compel disclosure of information filed by the department of social and health services pursuant to RCW 74.13.042.

(2) The family court shall have concurrent original jurisdiction with the juvenile court over all proceedings under this section if the superior court judges of a county authorize concurrent jurisdiction as provided in RCW 26.12.010.

(3) The juvenile court shall have concurrent original jurisdiction with the family or probate court over ~~((child custody))~~ minor guardianship proceedings under chapter ~~((26.10))~~ 11.130 RCW and parenting plans or residential schedules under chapter 26.09, 26.26A, or 26.26B RCW as provided for in RCW 13.34.155.

(4) A juvenile subject to adult superior court jurisdiction under subsection (1)(e)(i) through (v) of this section, who is detained pending trial,

may be detained in a detention facility as defined in RCW 13.40.020 pending sentencing or a dismissal.

Sec. 3. RCW 26.12.172 and 2008 c 6 s 1046 are each amended to read as follows:

Any court rules adopted for the implementation of parenting seminars shall include the following provisions:

(1) In no case shall opposing parties be required to attend seminars together;

(2) Upon a showing of domestic violence or abuse which would not require mutual decision making pursuant to RCW 26.09.191, or that a parent's attendance at the seminar is not in the children's best interests, the court shall either:

(a) Waive the requirement of completion of the seminar; or

(b) Provide an alternative, voluntary parenting seminar for battered spouses or battered domestic partners; and

(3) The court may waive the seminar for good cause.

(4) Cases filed as a minor guardianship under chapter 11.130 RCW are exempt from requirements of parenting seminar attendance.

Sec. 4. RCW 26.23.050 and 2021 c 35 s 14 are each amended to read as follows:

(1) If the division of child support is providing support enforcement services under RCW 26.23.045, or if a party is applying for support enforcement services by signing the application form on the bottom of the support order, the superior court shall include in all court orders that establish or modify a support obligation:

(a) A provision that orders and directs the person required to pay support to make all support payments to the Washington state support registry;

(b) A statement that withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state, without further notice to the person required to pay support at any time after entry of the court order, unless:

(i) One of the parties demonstrates, and the court finds, that there is good cause not to require immediate income withholding and that withholding should

be delayed until a payment is past due; or

(ii) The parties reach a written agreement that is approved by the court that provides for an alternate arrangement;

(c) A statement that the payee under the order or the person entitled to receive support might be required to submit an accounting of how the support, including any cash medical support, is being spent to benefit the child;

(d) A statement that a party to the support order who is required to provide health care coverage for the child or children covered by the order must notify the division of child support and the other party to the support order when the coverage terminates;

(e) A statement that any privilege of the person required to pay support to obtain and maintain a license, as defined in RCW 74.20A.320, may not be renewed, or may be suspended if the person is not in compliance with a support order as provided in RCW 74.20A.320; and

(f) A statement that the support obligation under the order may be abated as provided in RCW 26.09.320 if the person required to pay support is confined in a jail, prison, or correctional facility for at least six months, or is serving a sentence greater than six months in a jail, prison, or correctional facility.

As used in this subsection and subsection (3) of this section, "good cause not to require immediate income withholding" means a written determination of why implementing immediate wage withholding would not be in the child's best interests and, in modification cases, proof of timely payment of previously ordered support.

(2) In all other cases not under subsection (1) of this section, the court may order the person required to pay support to make payments directly to the person entitled to receive the payments, to the Washington state support registry, or may order that payments be made in accordance with an alternate arrangement agreed upon by the parties.

(a) The superior court shall include in all orders under this subsection that establish or modify a support obligation:

(i) A statement that withholding action may be taken against wages,

earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state, without further notice to the person required to pay support at any time after entry of the court order, unless:

(A) One of the parties demonstrates, and the court finds, that there is good cause not to require immediate income withholding and that withholding should be delayed until a payment is past due; or

(B) The parties reach a written agreement that is approved by the court that provides for an alternate arrangement;

(ii) A statement that the payee under the order or the person entitled to receive support may be required to submit an accounting of how the support is being spent to benefit the child;

(iii) A statement that any party to the order required to provide health care coverage for the child or children covered by the order must notify the division of child support and the other party to the order when the coverage terminates; and

(iv) A statement that a party to the order seeking to enforce the other party's obligation to provide health care coverage may:

(A) File a motion in the underlying superior court action; or

(B) If there is not already an underlying superior court action, initiate an action in the superior court.

As used in this subsection, "good cause not to require immediate income withholding" is any reason that the court finds appropriate.

(b) The superior court may order immediate or delayed income withholding as follows:

(i) Immediate income withholding may be ordered if the person required to pay support has earnings. If immediate income withholding is ordered under this subsection, all support payments shall be paid to the Washington state support registry. The superior court shall issue a mandatory wage assignment order as set forth in chapter 26.18 RCW when the support order is signed by the court. The payee under the order or the person entitled to receive the transfer payment

is responsible for serving the employer with the order and for its enforcement as set forth in chapter 26.18 RCW.

(ii) If immediate income withholding is not ordered, the court shall require that income withholding be delayed until a payment is past due. The support order shall contain a statement that withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state, without further notice to the person required to pay support, after a payment is past due.

(c) If a mandatory income withholding order under chapter 26.18 RCW is issued under this subsection and the division of child support provides support enforcement services under RCW 26.23.045, the existing wage withholding assignment is prospectively superseded upon the division of child support's subsequent service of an income withholding order.

(3) The office of administrative hearings and the department of social and health services shall require that all support obligations established as administrative orders include a provision which orders and directs that the person required to pay support shall make all support payments to the Washington state support registry. All administrative orders shall also state that any privilege of the person required to pay support to obtain and maintain a license, as defined in RCW 74.20A.320, may not be renewed, or may be suspended if the person is not in compliance with a support order as provided in RCW 74.20A.320. All administrative orders shall also state that withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state without further notice to the person required to pay support at any time after entry of the order, unless:

(a) One of the parties demonstrates, and the presiding officer finds, that there is good cause not to require immediate income withholding; or

(b) The parties reach a written agreement that is approved by the presiding officer that provides for an alternate agreement.

(4) If the support order does not include the provision ordering and

directing that all payments be made to the Washington state support registry and a statement that withholding action may be taken against wages, earnings, assets, or benefits if a support payment is past due or at any time after the entry of the order, or that licensing privileges of the person required to pay support may not be renewed, or may be suspended, the division of child support may serve a notice on the person stating such requirements and authorizations. Service may be by personal service or any form of mail requiring a return receipt.

(5) Every support order shall state:

(a) The address where the support payment is to be sent;

(b) That withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state, without further notice to the person required to pay support at any time after entry of a support order, unless:

(i) One of the parties demonstrates, and the court finds, that there is good cause not to require immediate income withholding; or

(ii) The parties reach a written agreement that is approved by the court that provides for an alternate arrangement;

(c) The income of the parties, if known, or that their income is unknown and the income upon which the support award is based;

(d) The support award as a sum certain amount;

(e) The specific day or date on which the support payment is due;

(f) The names and ages of the dependent children;

(g) A provision requiring both the person required to pay support, and the payee under the order or the person entitled to receive support who is a parent of the child or children covered by the order, to keep the Washington state support registry informed of whether he or she has access to health care coverage at reasonable cost and, if so, the health care coverage information;

(h) That either or both the person required to pay support, and the payee under the order or the person entitled to

receive support who is a parent of the child or children covered by the order, shall be obligated to provide medical support for a child or children covered by the order through health care coverage if:

(i) The person obligated to provide medical support provides accessible coverage for the child or children through private or public health care coverage; or

(ii) Coverage that can be extended to cover the child or children is or becomes available to the person obligated to provide medical support through employment or is union-related; or

(iii) In the absence of such coverage, through an additional sum certain amount, as that obligated person's monthly payment toward the premium as provided under RCW 26.09.105;

(i) That a person obligated to provide medical support who is providing health care coverage must notify both the division of child support and the other party to the order when coverage terminates;

(j) That if proof of health care coverage or proof that the coverage is unavailable is not provided within twenty days, the person seeking enforcement or the department may seek direct enforcement of the coverage through the employer or union of the person required to provide medical support without further notice to the person as provided under chapter 26.18 RCW;

(k) The reasons for not ordering health care coverage if the order fails to require such coverage;

(l) That any privilege of the person required to pay support to obtain and maintain a license, as defined in RCW 74.20A.320, may not be renewed, or may be suspended if the person is not in compliance with a support order as provided in RCW 74.20A.320;

(m) That each party to the support order must:

(i) Promptly file with the court and update as necessary the confidential information form required by subsection (7) of this section; and

(ii) Provide the state case registry and update as necessary the information required by subsection (7) of this section; and

(n) That parties to administrative support orders shall provide to the state case registry and update as necessary their residential addresses and the address of the employer of the person required to pay support. The division of child support may adopt rules that govern the collection of parties' current residence and mailing addresses, telephone numbers, dates of birth, social security numbers, the names of the children, social security numbers of the children, dates of birth of the children, driver's license numbers, and the names, addresses, and telephone numbers of the parties' employers to enforce an administrative support order. The division of child support shall not release this information if the division of child support determines that there is reason to believe that release of the information may result in physical or emotional harm to the party or to the child, or a restraining order or protective order is in effect to protect one party from the other party.

(6) After the person required to pay support has been ordered or notified to make payments to the Washington state support registry under this section, that person shall be fully responsible for making all payments to the Washington state support registry and shall be subject to payroll deduction or other income-withholding action. The person required to pay support shall not be entitled to credit against a support obligation for any payments made to a person or agency other than to the Washington state support registry except as provided under RCW 74.20.101. A civil action may be brought by the person required to pay support to recover payments made to persons or agencies who have received and retained support moneys paid contrary to the provisions of this section.

(7) All petitioners and parties to all court actions under chapters 26.09, ~~((26.10))~~ 26.12, 26.18, 26.21A, 26.23, 26.26A, 26.26B, and 26.27 RCW and minor guardianships under chapter 11.130 RCW shall complete to the best of their knowledge a verified and signed confidential information form or equivalent that provides the parties' current residence and mailing addresses, telephone numbers, dates of birth, social security numbers, driver's license numbers, and the names, addresses, and telephone numbers of the parties' employers, to ensure that the parties'

information is added to the judicial information system's person database. The clerk of the court shall not accept petitions, except in parentage actions initiated by the state, orders of child support, decrees of dissolution, or parentage orders for filing in such actions unless accompanied by the confidential information form or equivalent, or unless the confidential information form or equivalent is already on file with the court clerk. In lieu of or in addition to requiring the parties to complete a separate confidential information form, the clerk may collect the information in electronic form. The clerk of the court shall transmit the confidential information form or its data to the division of child support with a copy of the order of child support or parentage order, and may provide copies of the confidential information form or its data and any related findings, decrees, parenting plans, orders, or other documents to the state administrative agency that administers Title IV-A, IV-D, IV-E, or XIX of the federal social security act. In state initiated parentage actions, the parties adjudicated the parents of the child or children shall complete the confidential information form or equivalent or the state's attorney of record may complete that form to the best of the attorney's knowledge.

(8) The department has rule-making authority to enact rules consistent with 42 U.S.C. Sec. 652(f) and 42 U.S.C. Sec. 666(a)(19) as amended by section 7307 of the deficit reduction act of 2005. Additionally, the department has rule-making authority to implement regulations required under 45 C.F.R. Parts 302, 303, 304, 305, and 308.

Sec. 5. RCW 11.130.010 and 2020 c 312 s 301 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 at least eighteen years of age or an emancipated individual under eighteen years of age.

(2) "Adult subject to conservatorship" means an adult for whom a conservator has been appointed under this chapter.

(3) "Adult subject to guardianship" means an adult for whom a guardian has been appointed under this chapter.

(4) "Claim" includes a claim against an individual or conservatorship estate, whether arising in contract, tort, or otherwise.

(5) "Conservator" means a person appointed by a court to make decisions with respect to the property or financial affairs of an individual subject to conservatorship. The term includes a co-conservator.

(6) "Conservatorship estate" means the property subject to conservatorship under this chapter.

(7) "Court visitor" means the person appointed by the court pursuant to this chapter.

(8) "Evaluation and treatment facility" has the same meaning as provided in RCW 71.05.020.

(9) "Full conservatorship" means a conservatorship that grants the conservator all powers available under this chapter.

(10) "Full guardianship" means a guardianship that grants the guardian all powers available under this chapter.

(11) "Guardian" means a person appointed by the court to make decisions with respect to the personal affairs of an individual. The term includes a co-guardian but does not include a guardian ad litem.

(12) "Guardian ad litem" means a person appointed to inform the court about, ~~(and)~~ or to represent, the needs and best interests of a minor.

(13) "Individual subject to conservatorship" means an adult or minor for whom a conservator has been appointed under this chapter.

(14) "Individual subject to guardianship" means an adult or minor for whom a guardian has been appointed under this chapter.

(15) "Less restrictive alternative" means an approach to meeting an individual's needs which restricts fewer rights of the individual than would the appointment of a guardian or conservator. The term includes supported decision making, appropriate technological assistance, appointment of a representative payee, and appointment of an agent by the individual, including appointment under a power of attorney for health care or power of attorney for finances.

(16) "Letters of office" means a record issued by a court certifying a guardian's or conservator's authority to act.

(17) "Limited conservatorship" means a conservatorship that grants the conservator less than all powers available under this chapter, grants powers over only certain property, or otherwise restricts the powers of the conservator.

(18) "Limited guardianship" means a guardianship that grants the guardian less than all powers available under this chapter or otherwise restricts the powers of the guardian.

(19) "Long-term care facility" has the same meaning as provided in RCW 70.129.010.

(20) "Minor" means an unemancipated individual under eighteen years of age.

(21) "Minor subject to conservatorship" means a minor for whom a conservator has been appointed under this chapter.

(22) "Minor subject to guardianship" means a minor for whom a guardian has been appointed under this chapter.

(23) "Notice party" means a person entitled to notice under this chapter or otherwise determined by the court to be entitled to notice.

(24) "Parent" does not include an individual whose parental rights have been terminated.

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

(26) "Professional guardian or conservator" means a guardian or conservator appointed under this chapter who is not a relative of the person subject to guardianship or conservatorship established under this chapter and who charges fees for carrying out the duties of court-appointed guardian or conservator for three or more persons.

(27) "Property" includes tangible and intangible property.

(28) "Protective arrangement instead of conservatorship" means a court order entered under RCW 11.130.590.

(29) "Protective arrangement instead of guardianship" means a court order entered under RCW 11.130.585.

(30) "Protective arrangement under Article 5 of this chapter" means a court order entered under RCW 11.130.585 or 11.130.590.

(31) "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.

(32) "Relative" means any person related by blood or by law to the person subject to guardianship, conservatorship, or other protective arrangements.

(33) "Respondent" means an individual for whom appointment of a guardian or conservator or a protective arrangement instead of guardianship or conservatorship is sought.

(34) "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.

(35) "Special agent" means the person appointed by the court pursuant to RCW 11.130.375 or 11.130.635.

(36) "Standby guardian" means a person appointed by the court under RCW 11.130.220.

(37) "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.

(38) "Supported decision making" means assistance from one or more persons of an individual's choosing in understanding the nature and consequences of potential personal and financial decisions, which enables the individual to make the decisions, and in communicating a decision once made if consistent with the individual's wishes.

(39) "Verified receipt" is a verified receipt signed by the custodian of funds stating that a savings and loan association or bank, trust company, escrow corporation, or other

corporations approved by the court hold the cash or securities of the individual subject to conservatorship subject to withdrawal only by order of the court.

(40) "Visitor" means a court visitor.

Sec. 6. RCW 11.130.085 and 2019 c 437 s 117 are each amended to read as follows:

(1) Before accepting appointment as a guardian or conservator, a person shall disclose to the court whether the person:

(a) Is or has been a debtor in a bankruptcy, insolvency, or receivership proceeding;

(b) Has been convicted of:

(i) A felony;

(ii) A crime involving dishonesty, neglect, violence, or use of physical force; or

(iii) Other crimes relevant to the functions the individual would assume as guardian or conservator; or

(c) Has any court finding of a breach of fiduciary duty or a violation of any state's consumer protection act, or violation of any other statute proscribing unfair or deceptive acts or practices in the conduct of any business.

(2) A guardian or conservator that engages or anticipates engaging an agent the guardian or conservator knows has been convicted of a felony, a crime involving dishonesty, neglect, violence, or use of physical force, or other crimes relevant to the functions the agent is being engaged to perform promptly shall disclose that knowledge to the court.

(3) If a conservator engages or anticipates engaging an agent to manage finances of the individual subject to conservatorship and knows the agent is or has been a debtor in a bankruptcy, insolvency, or receivership proceeding, the conservator promptly shall disclose that knowledge to the court.

(4) If a guardian or conservator that engages or anticipates engaging an agent and knows the agent has any court finding of a breach of fiduciary duty or a violation of any state's consumer protection act, or violation of any other statute proscribing unfair or deceptive acts or practices in the conduct of any business, the guardian or conservator promptly shall disclose that knowledge to the court.

(5) A court may not be able to access certain databases. The parties and not the court are responsible for confirming the accuracy of what is represented.

Sec. 7. RCW 11.130.210 and 2020 c 312 s 105 are each amended to read as follows:

(1) Before granting any order under this chapter, the court must consult the judicial information system, if available, to determine the existence of any information and proceedings that are relevant to the placement of the child.

(2) Before entering a final order, the court must:

(a) Direct the department of children, youth, and families to release information regarding all proposed guardians and all adult members of any proposed guardian's household as provided under RCW 13.50.100; and

(b) Require the petitioner to provide the results of an examination of state and national criminal identification data provided by the Washington state patrol criminal identification system as described in chapter 43.43 RCW for ~~(the petitioner and)~~ all proposed guardians as well as all adult members of the ((petitioner's)) proposed guardian's household.

Sec. 8. RCW 11.130.215 and 2020 c 312 s 106 are each amended to read as follows:

(1) After a hearing under RCW 11.130.195, the court may appoint a guardian for a minor, if appointment is proper under RCW 11.130.185, dismiss the proceeding, or take other appropriate action consistent with this chapter or law of this state other than this chapter.

(2) In appointing a guardian under subsection (1) of this section, the following rules apply:

(a) The court shall appoint a person nominated as guardian by a parent of the minor in a probated will or other record unless the court finds the appointment is contrary to the best interest of the minor. Any "other record" must be a declaration or other sworn document and may include a power of attorney or other sworn statement as to the care, custody, or control of the minor child.

(b) If multiple parents have nominated different persons to serve as guardian,

the court shall appoint the nominee whose appointment is in the best interest of the minor, unless the court finds that appointment of none of the nominees is in the best interest of the minor.

(c) If a guardian is not appointed under (a) or (b) of this subsection, the court shall appoint the person nominated by the minor if the minor is twelve years of age or older unless the court finds that appointment is contrary to the best interest of the minor. In that case, the court shall appoint as guardian a person whose appointment is in the best interest of the minor.

(3) In the interest of maintaining or encouraging involvement by a minor's parent in the minor's life, developing self-reliance of the minor, or for other good cause, the court, at the time of appointment of a guardian for the minor or later, on its own or on motion of the minor or other interested person, may create a limited guardianship by limiting the powers otherwise granted by this article to the guardian. Following the same procedure, the court may grant additional powers or withdraw powers previously granted.

(4) The court, as part of an order appointing a guardian for a minor, shall state rights retained by any parent of the minor, which shall preserve the parent-child relationship through an order for parent-child visitation and other contact, unless the court finds the relationship should be limited or restricted under RCW 26.09.191; and which may include decision making regarding the minor's health care, education, or other matter, or access to a record regarding the minor.

(5) An order granting a guardianship for a minor must state that each parent of the minor is entitled to notice that:

(a) The guardian has delegated custody of the minor subject to guardianship;

(b) The court has modified or limited the powers of the guardian; or

(c) The court has removed the guardian.

(6) An order granting a guardianship for a minor must identify any person in addition to a parent of the minor which is entitled to notice of the events listed in subsection (5) of this section.

(7) An order granting guardianship for a minor must direct the clerk of the

court to issue letters of office to the guardian containing an expiration date which should be the minor's eighteenth birthday.

NEW SECTION. **Sec. 9.** Section 4 of this act takes effect January 1, 2023."

Correct the title.

Signed by Representatives Hansen, Chair; Simmons, Vice Chair; Walsh, Ranking Minority Member; Gilday, Assistant Ranking Minority Member; Graham, Assistant Ranking Minority Member; Abbarno; Davis; Entenman; Goodman; Kirby; Klippert; Orwall; Peterson; Thai; Valdez; Walen and Ybarra.

Referred to Committee on Rules for second reading.

February 23, 2022

E2SSB 5803 Prime Sponsor, Committee on Ways & Means: Mitigating the risk of wildfires caused by an electric utility's equipment. Reported by Committee on Rural Development, Agriculture & Natural Resources

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) It is in the best interest of the state, our citizens, and our landscapes 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 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 development of best practices guidelines and to require that electric utilities provide their wildfire mitigation plans to the state in order to promote public transparency and to obtain review of the plans for inclusion of applicable best practices guidelines.

NEW SECTION. Sec. 2. A new section is added to chapter 76.04 RCW to read as follows:

(1) The department shall contract with an independent consultant with experience in developing utility wildfire mitigation plans to recommend a format and a list of elements to be included in electric utility wildfire mitigation plans, including best practices guidance that may apply to each element as appropriate. In developing the format and list of elements, the department shall seek input from the utilities and transportation commission, the energy emergency management office of the department of commerce, the utility wildland fire prevention advisory committee, electric utilities, the state fire marshal, the governor's office of Indian affairs, and the public. By July 1, 2023, the department shall make public a recommended format and list of elements for electric utility wildfire mitigation plans.

(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 plan 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; and

(e) Operational procedures.

(3) The recommended format and list of elements developed by the department must be forwarded to the utilities and transportation commission, the energy emergency management office of the department of commerce, and all electric utilities in Washington state for a review period of 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 definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Consumer-owned utility" means a municipal electric utility, public utility district, irrigation district, cooperative, or mutual corporation association.

(b) "Electric utility" means: (i) An electrical company as defined in RCW 80.04.010 that is engaged in the business of distributing electricity to one or more electric customers in the state; or (ii) a consumer-owned utility that is engaged in the business of distributing electricity to one or more electric customers 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, 2023, and at a minimum every two years thereafter, each electrical company must review and revise, if appropriate, its wildfire mitigation plan and submit it to the commission. The plan should include a review of specific circumstances of that electrical company and incorporate as appropriate the recommendations developed pursuant to section 2 of this act. The electrical company must submit its plan to the commission and make the plan publicly available. Within six months of submission by the electrical company, the commission shall review the plan and confirm whether or not the plan contains the recommended elements. In reviewing the plan, the commission must consult with the department of natural resources and the energy emergency management office of the department of commerce. The commission's review of an electrical company's wildfire mitigation plan does not relieve an electrical company from proactively managing wildfire risk, including by monitoring emerging practices and technologies, and mitigating and responding to wildfires.

The commission is not liable for an electrical company's performance implementing its wildfire mitigation plan. An electrical company may pursue recovery of reasonable costs and investments associated with a wildfire mitigation plan through a proceeding to set rates at the commission. Nothing in this section or sections 2, 4, and 6 of this act may be construed to preclude electrical companies from continuing to develop and implement wildfire mitigation measures. After the commission's review, the electrical company must provide a copy of the plan to the department of natural resources along with a list and description of wildland fires within its customer service area over the previous two years as reported by the department of natural resources. The plan must be posted as specified in section 6 of this act.

(2) For the purposes of this section, "electrical company" means a company owned by investors that meets the definition of "corporation" 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 December 31, 2023, and every two years thereafter, each consumer-owned utility must review and revise, if appropriate, its wildfire mitigation plan. The plan should include a review of specific circumstances of that utility and incorporate as appropriate the recommendations developed pursuant to section 2 of this act.

(a) The governing board of each consumer-owned utility shall review the plan and confirm whether the plan contains the recommended elements. Local fire districts must be provided the opportunity to review and provide feedback during this period. 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 within its customer service area over the previous two years as reported by the department of natural resources. The plan must be posted as specified in section 6 of this act.

(b) Each consumer-owned utility must also provide its plan to the energy emergency management office of the

department of commerce for review, which must review the plans and provide feedback within six months for consideration for inclusion in the next plan revision.

(c) By December 31, 2022, each utility must provide a copy of their most recent plan to the department of natural resources and it must be posted on a website.

(d) By December 31, 2023, the energy emergency management office will be available to provide technical assistance to consumer-owned utilities to include the best practices guidelines in their revision of plans.

(2) Two or more abutting 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 recommended elements pursuant to section 2 of this act.

(3) Nothing in this section prohibits a utility from reviewing or updating its wildfire mitigation plan more often than every two years or requires that the utility submit their plan beyond the requirements of 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:

(i) Finalizing 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 recommendations of the task force related to communications and information exchanges between the department and utilities;

(iii) Implementing recommendations of the task force related to protocols and thresholds when implementing provisions of RCW 76.04.015; and

(iv) Implementing 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 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. In addition, by July 1, 2023, the department must submit to the appropriate committees of the senate and house of representatives:

(a) A compilation and summary of existing wildfire mitigation plans maintained by electric utilities;

(b) An analysis of the costs and benefits of preparing and maintaining a comprehensive statewide wildland fire risk map that identifies relative risk classes, with detail at a level to assist property owners, local governments, utilities, wildland management agencies, and fire response agencies in taking actions to minimize wildland fire starts and resulting damage. The analysis must also address incorporating the boundaries of the wildland urban interface as mapped pursuant to RCW 19.27.031; and

(c) 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 department of commerce energy policy division and the emergency management division of the military department.

(4) 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 advisory committee must include a representative of the energy 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;

(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 persons designated by 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 representing historically marginalized or underrepresented communities.

(6) 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 in order to expeditiously accomplish the duties and make recommendations regarding the elements described in subsection (3) of this section.

(7) 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) Participation on the advisory committee created in subsection (1) of this section is strictly voluntary and without compensation.

(9) Any requirements in this section are subject to the availability of amounts appropriated for the specific purposes described.

NEW SECTION. Sec. 6. A new section is added to chapter 76.04 RCW to read as follows:

(1) The department must create a public website to host electric utility wildfire mitigation plans developed under sections 3 and 4 of this act.

(2) Nothing in this act may be construed to preclude electric utilities

from continuing to develop and implement their wildfire mitigation plans. Electric utilities are encouraged to submit their 2022 plans to the department's energy emergency management office for inclusion on the website under subsection (1) of this section.

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

(a) "Consumer-owned utility" means a municipal electric utility, public utility district, irrigation district, cooperative, or mutual corporation association.

(b) "Electric utility" means: (i) An electrical company as defined in RCW 80.04.010 that is engaged in the business of distributing electricity to one or more electric customers in the state; or (ii) a consumer-owned utility that is engaged in the business of distributing electricity to one or more electric customers in the state."

Correct the title.

Signed by Representatives Chapman, Chair; Shewmake, Vice Chair; Chandler, Ranking Minority Member; Dent, Assistant Ranking Minority Member; Fitzgibbon; Klicker; Kloba; Kretz; Lekanoff; McEntire; Morgan; Orcutt; Ramos; Schmick and Springer.

Referred to Committee on Appropriations.

February 23, 2022

SSB 5860

Prime Sponsor, Committee on Agriculture, Water, Natural Resources & Parks: Concerning water policy in regions with regulated reductions in aquifer levels. Reported by Committee on Rural Development, Agriculture & Natural Resources

MAJORITY recommendation: Do pass. Signed by Representatives Chapman, Chair; Shewmake, Vice Chair; Chandler, Ranking Minority Member; Dent, Assistant Ranking Minority Member; Fitzgibbon; Klicker; Kloba; Kretz; Lekanoff; McEntire; Morgan; Orcutt; Ramos; Schmick and Springer.

Referred to Committee on Rules for second reading.

February 23, 2022

SB 5866

Prime Sponsor, Senator Robinson: Concerning medicaid long-term services and supports eligibility determinations completed by federally recognized Indian

tribes. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass. Signed by Representatives Cody, Chair; Bateman, Vice Chair; Schmick, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; Bronoske; Davis; Harris; Macri; Maycumber; Riccelli; Rude; Simmons; Stonier; Tharinger and Ybarra.

Referred to Committee on Rules for second reading.

February 23, 2022

ESSB 5874 Prime Sponsor, Committee on Higher Education & Workforce Development: Concerning residency of students affiliated with the military. Reported by Committee on College & Workforce Development

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 28B.15.012 and 2021 c 272 s 9 are each amended to read as follows:

Whenever used in this chapter:

(1) The term "institution" shall mean a public university, college, or community or technical college within the state of Washington.

(2) The term "resident student" shall mean:

(a) A financially independent student who has had a domicile in the state of Washington for the period of one year immediately prior to the time of commencement of the first day of the semester or quarter for which the student has registered at any institution and has in fact established a bona fide domicile in this state primarily for purposes other than educational;

(b) A dependent student, if one or both of the student's parents or legal guardians have maintained a bona fide domicile in the state of Washington for at least one year immediately prior to commencement of the semester or quarter for which the student has registered at any institution;

(c) A student classified as a resident based upon domicile by an institution on or before May 31, 1982, who was enrolled at a state institution during any term of the 1982-1983 academic year, so long as such student's enrollment (excepting

summer sessions) at an institution in this state is continuous;

(d) Any student who has spent at least seventy-five percent of both his or her junior and senior years in high schools in this state, whose parents or legal guardians have been domiciled in the state for a period of at least one year within the five-year period before the student graduates from high school, and who enrolls in a public institution of higher education within six months of leaving high school, for as long as the student remains continuously enrolled for three quarters or two semesters in any calendar year;

(e) Any person who has completed and obtained a high school diploma, or a person who has received the equivalent of a diploma; who has continuously lived in the state of Washington for at least a year primarily for purposes other than educational before the individual is admitted to an institution of higher education under subsection (1) of this section; and who provides to the institution 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;

(f) Any person who has lived in Washington, primarily for purposes other than educational, for at least one year immediately before the date on which the person has enrolled in an institution, and who holds lawful nonimmigrant status pursuant to 8 U.S.C. Sec. (a)(15)(E)(iii), (H)(i), or (L), or who holds lawful nonimmigrant status as the spouse or child of a person having nonimmigrant status under one of those subsections, or who, holding or having previously held such lawful nonimmigrant status as a principal or derivative, has filed an application for adjustment of status pursuant to 8 U.S.C. Sec. 1255(a);

(g) A student who is ~~((or))~~ one of the following:

(i) On active military duty ((stationed in the state or who is a));

(ii) A member of the ((Washington)) army or air national guard as defined in subsection (10) of this section, regardless of active military status; or

(iii) A member of the reserve component of the United States army, navy, air force, or marine corps;

~~(h) ((A student who is on active military duty or a member of the Washington national guard who meets the following conditions:~~

~~(i) Entered service as a Washington resident;~~

~~(ii) Has maintained a Washington domicile; and~~

~~(iii) Is stationed out-of-state;~~

~~(i)) A student who is the spouse, state registered domestic partner, or a dependent as defined in Title 10 U.S.C. Sec. 1072(2) as it existed on January 18, 2022, or such subsequent date as the student achievement council may determine by rule of a person defined in (g) of this subsection((. If the person defined in (g) of this subsection is reassigned out of state, the student maintains the status as a resident student so long as the student is either:~~

~~(i) Admitted to an institution before the reassignment and enrolls in that institution for the term the student was admitted; or~~

~~(ii) Enrolled in an institution and remains continuously enrolled at the institution;~~

~~(j) A student who is the spouse or a dependent of a person defined in (h) of this subsection;~~

~~(k) A student who is eligible or entitled to transferred federal post-9/11 veterans educational assistance act of 2008 (38 U.S.C. Sec. 3301 et seq.) benefits based on the student's relationship as a spouse, former spouse, or child to an individual who is on active duty in the uniformed services;~~

~~(l) A student who resides in the state of Washington and is the spouse or a dependent of a person who is a member of the Washington national guard));~~

~~((m)) (i) A student who ((has separated from the uniformed services with any period of honorable service after at least ninety days of active duty service; is eligible for educational assistance benefits under Title 38 U.S.C.; and enters an institution of higher education in Washington within three years of the date of separation)) is eligible for veterans administration educational assistance or rehabilitation~~

benefits under Title 38 U.S.C. or educational assistance under Title 10 U.S.C. chapter 1606 as those titles existed on January 18, 2022, or such subsequent date as the student achievement council may determine by rule;

~~((n) A student who is on terminal, transition, or separation leave pending separation, or release from active duty, from the uniformed services with any period of honorable service after at least ninety days of active duty service and is eligible for educational assistance benefits under Title 38 U.S.C.;~~

~~(o) A student who is entitled to veterans administration educational assistance benefits based on the student's relationship as a spouse, former spouse, or child to an individual who has separated from the uniformed services with any period of honorable service after at least ninety days of active duty service, and who enters an institution of higher education in Washington within three years of the service member's date of separation;~~

~~(p)) (j) A student who ((is the spouse or child to an individual who)) has separated or retired from the uniformed services with at least ten years of honorable service and at least ninety days of active duty service, and who enters an institution ((of higher education in Washington)) within three years of the service member's date of separation or retirement;~~

~~((q)) (k) A student who is the spouse, state registered domestic partner, or child under the age of 26 years of an individual who has separated or retired from the uniformed services with at least 10 years of honorable service and at least 90 days of active duty service, and who enters an institution within three years of the service member's date of separation or retirement;~~

~~(l) A student who has separated from the uniformed services who was discharged due to the student's sexual orientation or gender identity or expression;~~

~~((r) A student who is entitled to veterans administration educational assistance benefits based on the student's relationship with a deceased member of the uniformed services who died in the line of duty;~~

~~(s) A student who is entitled to federal vocational rehabilitation and employment services for veterans with service-connected disabilities under 38 U.S.C. Sec. 3102(a);~~

~~(t)) (m) A student who is defined as a covered individual in 38 U.S.C. Sec. 3679(c)(2) as it existed on ((July 28, 2019)) January 18, 2022, or such subsequent date as the student achievement council may determine by rule; or~~

~~((u) A student of an out-of-state institution of higher education who is attending a Washington state institution of higher education pursuant to a home tuition agreement as described in RCW 28B.15.725;~~

~~(v)) (n) A student who meets the requirements of RCW 28B.15.0131 or 28B.15.0139: PROVIDED, That a nonresident student enrolled for more than six hours per semester or quarter shall be considered as attending for primarily educational purposes, and for tuition and fee paying purposes only such period of enrollment shall not be counted toward the establishment of a bona fide domicile of one year in this state unless such student proves that the student has in fact established a bona fide domicile in this state primarily for purposes other than educational(~~

~~(w) A student who resides in Washington and is on active military duty stationed in the Oregon counties of Columbia, Gilliam, Hood, River, Multnomah, Clatsop, Clackamas, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, or Washington; or~~

~~(x) A student who resides in Washington and is the spouse or a dependent of a person defined in (w) of this subsection. If the person defined in (w) of this subsection moves from Washington or is reassigned out of the Oregon counties of Columbia, Gilliam, Hood, River, Multnomah, Clatsop, Clackamas, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, or Washington, the student maintains the status as a resident student so long as the student resides in Washington and is either:~~

~~(i) Admitted to an institution before the reassignment and enrolls in that institution for the term the student was admitted; or~~

~~(ii) Enrolled in an institution and remains continuously enrolled at the institution)).~~

~~(3)((a)) A student who qualifies under subsection (2) ((k), (m), (n), (o), (p), (q), (r), (s), or (t)) (g) through (m) of this section and who remains continuously enrolled at an institution of higher education shall retain resident student status.~~

~~((b) Nothing in subsection (2)(k), (m), (n), (o), (p), (q), (r), (s), or (t) of this section applies to students who have a dishonorable discharge from the uniformed services, or to students who are the spouse or child of an individual who has had a dishonorable discharge from the uniformed services, unless the student is receiving veterans administration educational assistance benefits.))~~

~~(4) The term "nonresident student" shall mean any student who does not qualify as a "resident student" under the provisions of this section and RCW 28B.15.013. Except for students qualifying under subsection (2)(e) ((e) (u)) of this section, a nonresident student shall include:~~

~~(a) A student attending an institution with the aid of financial assistance provided by another state or governmental unit or agency thereof, such nonresidency continuing for one year after the completion of such semester or quarter. This condition shall not apply to students from Columbia, Multnomah, Clatsop, Clackamas, or Washington county, Oregon participating in the border county pilot project under RCW 28B.76.685, 28B.76.690, and 28B.15.0139.~~

~~(b) A person who is not a citizen of the United States of America, unless the person meets and complies with all applicable requirements in this section and RCW 28B.15.013 and is one of the following:~~

~~(i) A lawful permanent resident;~~

~~(ii) A temporary resident;~~

~~(iii) A person who holds "refugee-parolee," "conditional entrant," or U or T nonimmigrant status with the United States citizenship and immigration services;~~

~~(iv) A person who has been issued an employment authorization document by the United States citizenship and immigration services that is valid as of~~

the date the person's residency status is determined;

(v) A person who has been granted deferred action for childhood arrival status before, on, or after June 7, 2018, regardless of whether the person is no longer or will no longer be granted deferred action for childhood arrival status due to the termination, suspension, or modification of the deferred action for childhood arrival program; or

(vi) A person who is otherwise permanently residing in the United States under color of law, including deferred action status.

(5) The term "domicile" shall denote a person's true, fixed and permanent home and place of habitation. It is the place where the student intends to remain, and to which the student expects to return when the student leaves without intending to establish a new domicile elsewhere. The burden of proof that a student, parent or guardian has established a domicile in the state of Washington primarily for purposes other than educational lies with the student.

(6) The term "dependent" shall mean a person who is not financially independent. Factors to be considered in determining whether a person is financially independent shall be set forth in rules adopted by the student achievement council and shall include, but not be limited to, the state and federal income tax returns of the person and/or the student's parents or legal guardian filed for the calendar year prior to the year in which application is made and such other evidence as the council may require.

(7) The term "active military duty" means the person is serving on active duty in:

(a) The armed forces of the United States government; or

(b) The (~~Washington~~) national guard; or

(c) The coast guard, merchant mariners, or other nonmilitary organization when such service is recognized by the United States government as equivalent to service in the armed forces.

(8) The term "active duty service" means full-time duty, other than active duty for training, as a member of the

uniformed services of the United States. Active duty service as a national guard member under Title 32 U.S.C. for the purpose of organizing, administering, recruiting, instructing, or training and active service under Title 32 U.S.C. Sec. 502(f) for the purpose of responding to a national emergency is recognized as active duty service.

(9) The term "uniformed services" is defined by Title 10 U.S.C.; subsequently structured and organized by Titles 14, 33, and 42 U.S.C.; consisting of the United States army, United States marine corps, United States navy, United States air force, United States coast guard, United States space force, United States public health service commissioned corps, and the national oceanic and atmospheric administration commissioned officer corps.

(10) "National guard" means that part of the military force of the state that is organized, equipped, and federally recognized under the provisions of the national defense act of the United States, and in the event the national guard is called into federal service or in the event the state guard or any part or individual member thereof is called into active state service by the commander-in-chief. National guard service includes being subject to call up for active duty under Title 32 U.S.C. or Title 10 U.S.C. status or when called to state active service by the governor under the provisions of RCW 38.08.040.

(11) "Child" includes, but is not limited to:

(a) A legitimate child;

(b) An adopted child;

(c) A stepchild;

(d) A foster child; and

(e) A legal dependent."

On page 1, line 1 of the title, after "military;" strike the remainder of the title and insert "and amending RCW 28B.15.012."

Signed by Representatives Slatter, Chair; Entenman, Vice Chair; Leavitt, Vice Chair; Hansen; Paul; Pollet and Sells.

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

MINORITY recommendation: Do not pass. Signed by Representatives Chandler and Hoff.

Referred to Committee on Appropriations.

February 23, 2022

SB 5909 Prime Sponsor, Senator Randall: Concerning legislative oversight of gubernatorial powers concerning emergency proclamations and unanticipated receipts. Reported by Committee on State Government & Tribal Relations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.06.210 and 2013 c 21 s 1 are each amended to read as follows:

(1) The proclamation of a state of emergency and other proclamations or orders issued by the governor pursuant to RCW 43.06.010, and 43.06.200 through 43.06.270 as now or hereafter amended shall be in writing and shall be signed by the governor and shall then be filed with the secretary of state. A proclamation of a state of emergency is effective upon the governor's signature.

(2) The governor shall give as much public notice as practical through the news media of the issuance of proclamations or orders pursuant to RCW 43.06.010, and 43.06.200 through 43.06.270 as now or hereafter amended.

(3) The state of emergency shall cease to exist upon ~~((the))~~:

(a) The issuance of a proclamation of the governor declaring its termination: PROVIDED, That the governor must terminate said state of emergency proclamation when order has been restored in the area affected; or

(b) If the legislature is not in session and it has been more than 90 days since the state of emergency was declared by the governor, termination of the state of emergency in writing by all four members of the leadership of the senate and the house of representatives. For purposes of this section, "leadership of the senate and the house of representatives" means the majority and minority leaders of the senate and the speaker and the minority leader of the house of representatives.

Sec. 2. RCW 43.06.220 and 2019 c 472 s 2 are each amended to read as follows:

(1) The governor after proclaiming a state of emergency and prior to terminating such, may, in the area described by the proclamation issue an order prohibiting:

(a) Any person being on the public streets, or in the public parks, or at any other public place during the hours declared by the governor to be a period of curfew;

(b) Any number of persons, as designated by the governor, from assembling or gathering on the public streets, parks, or other open areas of this state, either public or private;

(c) The manufacture, transfer, use, possession or transportation of a molotov cocktail or any other device, instrument or object designed to explode or produce uncontained combustion;

(d) The transporting, possessing or using of gasoline, kerosene, or combustible, flammable, or explosive liquids or materials in a glass or uncapped container of any kind except in connection with the normal operation of motor vehicles, normal home use or legitimate commercial use;

(e) The sale, purchase or dispensing of alcoholic beverages;

(f) The sale, purchase or dispensing of other commodities or goods, as he or she reasonably believes should be prohibited to help preserve and maintain life, health, property or the public peace;

(g) The use of certain streets, highways or public ways by the public; and

(h) Such other activities as he or she reasonably believes should be prohibited to help preserve and maintain life, health, property or the public peace.

(2) The governor after proclaiming a state of emergency and prior to terminating such may, in the area described by the proclamation, issue an order or orders concerning waiver or suspension of statutory obligations or limitations in the following areas:

(a) Liability for participation in interlocal agreements;

(b) Inspection fees owed to the department of labor and industries;

(c) Application of the family emergency assistance program;

(d) Regulations, tariffs, and notice requirements under the jurisdiction of the utilities and transportation commission;

(e) Application of tax due dates and penalties relating to collection of taxes;

(f) Permits for industrial, business, or medical uses of alcohol; and

(g) Such other statutory and regulatory obligations or limitations prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency if strict compliance with the provision of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency, unless (i) authority to waive or suspend a specific statutory or regulatory obligation or limitation has been expressly granted to another statewide elected official, (ii) the waiver or suspension would conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, or (iii) the waiver or suspension would conflict with the rights, under the First Amendment, of freedom of speech or of the people to peaceably assemble. The governor shall give as much notice as practical to legislative leadership and impacted local governments when issuing orders under this subsection (2) (g).

(3) In imposing the restrictions provided for by RCW 43.06.010, and 43.06.200 through 43.06.270, the governor may impose them for such times, upon such conditions, with such exceptions and in such areas of this state he or she from time to time deems necessary.

(4) No order or orders concerning waiver or suspension of statutory obligations or limitations under subsection (2) of this section may continue for longer than thirty days unless extended by the legislature through concurrent resolution. If the legislature is not in session, the waiver or suspension of statutory obligations or limitations may be extended in writing by all four members of the leadership of the senate and the house of representatives until the legislature can extend the waiver or suspension by concurrent resolution.

(5) The order or orders under subsection (1) of this section may be terminated in writing by all four members of the leadership of the senate and the house of representatives if the legislature is not in session.

(6) For purposes of this section, "leadership of the senate and the house of representatives" means the majority and minority leaders of the senate and the speaker and the minority leader of the house of representatives.

~~((45))~~ (7) Any person willfully violating any provision of an order issued by the governor under this section is guilty of a gross misdemeanor.

Sec. 3. RCW 43.79.270 and 2021 c 334 s 972 are each amended to read as follows:

(1) Except as provided in subsection (3) of this section, whenever any money, from the federal government, or from other sources, which was not anticipated in the budget approved by the legislature has actually been received and is designated to be spent for a specific purpose, the head of any department, agency, board, or commission through which such expenditure shall be made is to submit to the governor a statement which may be in the form of a request for an allotment amendment setting forth the facts constituting the need for such expenditure and the estimated amount to be expended: PROVIDED, That no expenditure shall be made in excess of the actual amount received, and no money shall be expended for any purpose except the specific purpose for which it was received. A copy of any proposal submitted to the governor to expend money from an appropriated fund or account in excess of appropriations provided by law which is based on the receipt of unanticipated revenues shall be submitted to the joint legislative audit and review committee and also to the standing committees on ways and means of the house and senate if the legislature is in session at the same time as it is transmitted to the governor.

(2) Except as provided in subsection (3) of this section, and notwithstanding subsection (1) of this section, whenever money from any source that was not anticipated in the transportation budget approved by the legislature has actually been received and is designated to be spent for a specific purpose, the head of a department, agency, board, or

commission through which the expenditure must be made shall submit to the governor a statement, which may be in the form of a request for an allotment amendment, setting forth the facts constituting the need for the expenditure and the estimated amount to be expended. However, no expenditure may be made in excess of the actual amount received, and no money may be expended for any purpose except the specific purpose for which it was received. A copy of any proposal submitted to the governor to expend money from an appropriated transportation fund or account in excess of appropriations provided by law that is based on the receipt of unanticipated revenues must be submitted, at a minimum, to the standing committees on transportation of the house and senate at the same time as it is transmitted to the governor.

(3) (~~During the 2021-2023 fiscal biennium, whenever~~) Whenever any money in the amount of \$5,000,000 or more, from the federal government, or from other sources, which was not anticipated in the operating, capital, or transportation budget approved by the legislature has been awarded or has actually been received when the legislature is not in session and the use of the money is unrestricted or provides discretion to use the moneys for more than one agency, program, or purpose, the governor must:

(a) Submit a copy of the proposed allotment amendment to the joint legislative unanticipated revenue oversight committee;

(b) Provide an explanation of the timing, source, and availability of such funds and why the need for the expenditure could not have been anticipated in time for such expenditure to have been approved as part of a budget act for that particular fiscal year; and

(c) Provide the joint legislative unanticipated revenue oversight committee 14 calendar days from submittal the opportunity to review and comment on the proposed allotment amendment before approving under RCW 43.79.280.

Sec. 4. RCW 43.79.285 and 2021 c 334 s 956 are each reenacted and amended to read as follows:

(1) There is hereby created a joint select committee to be known as the joint legislative unanticipated revenue oversight committee with the following sixteen members:

(a) The majority and minority leaders of the senate;

(b) The speaker and the minority leader of the house of representatives;

(c) Six additional members of the senate with three members from each of the two largest caucuses of the senate appointed by their respective leaders; and

(d) Six additional members of the house of representatives with three members from each of the two largest caucuses of the house of representatives appointed by their respective leaders.

(2) The cochairs of the committee are the leaders of the two largest caucuses of the senate in even-numbered years and the leaders of the two largest caucuses of the house of representatives in odd-numbered years.

(3) Staff support for the committee is provided by the senate committee services and the house of representatives office of program research.

(4) Members of the committee serve without additional compensation, but must be reimbursed for travel expenses in accordance with RCW 44.04.120. The expenses of the committee are paid jointly by the senate and the house of representatives and expenditures are subject to approval by the senate facilities and operations committee and the house of representatives executive rules committee, or their successor committees.

(5) The purpose of the committee is to review requests for proposed allotment amendments to spend unanticipated and unbudgeted moneys received by the state from federal and nonstate sources pursuant to RCW 43.79.270(3). The committee is necessary to provide oversight of the legislature's delegation of state fiscal authority to the governor while the legislature is not in session and to prevent infringement on the legislature's constitutional power to appropriate state funds.

(6) The committee shall meet as necessary to review requests from the governor pursuant to RCW 43.79.270(3) and to provide comment within 14 calendar days. The committee may conduct its meetings and hold public hearings by conference telephone call, videoconference, or using similar technology equipment so that all persons

participating in the meeting can hear each other at the same time. The committee shall adopt rules and procedures for its orderly operation. The activities of the committee are suspended during regular or special legislative sessions.

(7) If the committee chooses to conduct a public hearing on a proposed allotment amendment, the committee must provide the office of financial management with five calendar days notice of the public hearing. The office of financial management, or its designee, must appear before the committee to present the proposed allotment amendment and respond to questions. The committee may also require the state agency, department, board, or commission proposing the allotment amendment to appear before the committee, submit additional information, or engage in other activities necessary for the committee to review and comment on proposed allotment amendments.

(8) Action of the committee is limited to the review and comment on requests submitted by the governor under RCW 43.79.270(3). Action by the committee requires the majority vote of members of the committee in attendance at the meeting. Action may take the form of a recommendation approving the proposed allotment amendment, rejecting the proposed allotment amendment, or proposing an alternative allotment amendment for governor consideration prior to approval under RCW 43.79.280. The committee's action is not binding on the governor.

NEW SECTION. **Sec. 5.** RCW 43.79.285 is recodified as a section in chapter 44.04 RCW."

Correct the title.

Signed by Representatives Valdez, Chair; Lekanoff, Vice Chair; Dolan and Gregerson.

MINORITY recommendation: Do not pass. Signed by Representatives Volz, Ranking Minority Member; Walsh, Assistant Ranking Minority Member and Graham.

Referred to Committee on Rules for second reading.

February 23, 2022

ESSB 5942 Prime Sponsor, Committee on Law & Justice: Enacting the uniform college athlete name, image, or likeness act.

Reported by Committee on College & Workforce Development

MAJORITY recommendation: Do pass. Signed by Representatives Slatter, Chair; Entenman, Vice Chair; Leavitt, Vice Chair; Chambers, Ranking Minority Member; Hansen; Paul; Pollet and Sells.

MINORITY recommendation: Without recommendation. Signed by Representative Jacobsen, Assistant Ranking Minority Member.

MINORITY recommendation: Do not pass. Signed by Representatives Chandler; Hoff and Kraft.

Referred to Committee on Rules for second reading.

February 23, 2022

SB 5972 Prime Sponsor, Senator Warnick: Concerning extending the expiration date of a statute dealing with wildlife conflict resolution. Reported by Committee on State Government & Tribal Relations

MAJORITY recommendation: Do pass. Signed by Representatives Valdez, Chair; Lekanoff, Vice Chair; Volz, Ranking Minority Member; Dolan; Graham and Gregerson.

MINORITY recommendation: Without recommendation. Signed by Representative Walsh, Assistant Ranking Minority Member.

Referred to Committee on Rules for second reading.

2nd SUPPLEMENTAL REPORTS OF STANDING COMMITTEES

February 24, 2022

HB 1781 Prime Sponsor, Representative Tharinger: Concerning the capital budget. Reported by Committee on Capital Budget

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Tharinger, Chair; Callan, Vice Chair; Hackney, Vice Chair; Steele, Ranking Minority Member; Abbarno, Assistant Ranking Minority Member; McEntire, Assistant Ranking Minority Member; Bateman; Eslick; Gilday; Kloba; Leavitt; MacEwen; Maycumber; Mosbrucker; Riccelli; Rule; Santos; Sells; Shewmake and Volz.

Referred to Committee on Rules for second reading.

February 23, 2022

HB 1816 Prime Sponsor, Representative Ormsby: Making 2021-2023 fiscal biennium

supplemental operating appropriations.
Reported by Committee on Appropriations

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Chopp; Cody; Dolan; Fitzgibbon; Frame; Hansen; Johnson, J.; Lekanoff; Pollet; Ryu; Senn; Springer; Stonier; Sullivan and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke; Caldier; Chandler; Dye; Harris; Hoff; Jacobsen; Rude; Schmick and Steele.

Referred to Committee on Rules for second reading.

February 24, 2022

ESSB 5004 Prime Sponsor, Committee on Ways & Means: Providing a tax exemption for medical marijuana patients. Reported by Committee on Finance

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 69.50.535 and 2015 2nd sp.s. c 4 s 205 are each amended to read as follows:

(1) (a) There is levied and collected a marijuana excise tax equal to thirty-seven percent of the selling price on each retail sale in this state of marijuana concentrates, useable marijuana, and marijuana-infused products. This tax is separate and in addition to general state and local sales and use taxes that apply to retail sales of tangible personal property, and is not part of the total retail price to which general state and local sales and use taxes apply. The tax must be separately itemized from the state and local retail sales tax on the sales receipt provided to the buyer.

(b) The tax levied in this section must be reflected in the price list or quoted shelf price in the licensed marijuana retail store and in any advertising that includes prices for all useable marijuana, marijuana concentrates, or marijuana-infused products.

(2) (a) Until January 1, 2027, the tax levied by subsection (1) of this section

does not apply to sales, by a marijuana retailer with a medical marijuana endorsement to qualifying patients or designated providers who have been issued a recognition card, of marijuana concentrates, useable marijuana, or marijuana-infused products, identified by the department in rules adopted under RCW 69.50.375(4) in chapter 246-70 WAC as being compliant marijuana products.

(b) Each seller making exempt sales under this subsection (2) must maintain information establishing eligibility for the exemption in the form and manner required by the board.

(c) The board must provide a separate tax reporting line on the excise tax form for exemption amounts claimed under this subsection (2).

(d) To assist with the review required in section 2 of this act, the board must consult with the joint legislative audit and review committee to determine if there is additional information on sales that sellers must report to the board beginning January 1, 2023.

(3) All revenues collected from the marijuana excise tax imposed under this section must be deposited each day in the dedicated marijuana account.

~~((3))~~ (4) The tax imposed in this section must be paid by the buyer to the seller. Each seller must collect from the buyer the full amount of the tax payable on each taxable sale. The tax collected as required by this section is deemed to be held in trust by the seller until paid to the board. If any seller fails to collect the tax imposed in this section or, having collected the tax, fails to pay it as prescribed by the board, whether such failure is the result of the seller's own acts or the result of acts or conditions beyond the seller's control, the seller is, nevertheless, personally liable to the state for the amount of the tax.

~~((4))~~ (5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) ~~("Board" means the state liquor and cannabis board.~~

~~(b))~~ "Retail sale" has the same meaning as in RCW 82.08.010.

~~((e))~~ (b) "Selling price" has the same meaning as in RCW 82.08.010, except that when product is sold under

circumstances where the total amount of consideration paid for the product is not indicative of its true value, "selling price" means the true value of the product sold.

~~((d))~~ (c) "Product" means marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products.

~~((e))~~ (d) "True value" means market value based on sales at comparable locations in this state of the same or similar product of like quality and character sold under comparable conditions of sale to comparable purchasers. However, in the absence of such sales of the same or similar product, true value means the value of the product sold as determined by all of the seller's direct and indirect costs attributable to the product.

~~((5))~~ (6)(a) The board must regularly review the tax level established under this section and make recommendations, in consultation with the department of revenue, to the legislature as appropriate regarding adjustments that would further the goal of discouraging use while undercutting illegal market prices.

(b) The ~~((state liquor and cannabis))~~ board must report, in compliance with RCW 43.01.036, to the appropriate committees of the legislature every two years. The report at a minimum must include the following:

(i) The specific recommendations required under (a) of this subsection;

(ii) A comparison of gross sales and tax collections prior to and after any marijuana tax change;

(iii) The increase or decrease in the volume of legal marijuana sold prior to and after any marijuana tax change;

(iv) Increases or decreases in the number of licensed marijuana producers, processors, and retailers;

(v) The number of illegal and noncompliant marijuana outlets the board requires to be closed;

(vi) Gross marijuana sales and tax collections in Oregon; and

(vii) The total amount of reported sales and use taxes exempted for qualifying patients. The department of revenue must provide the data of exempt amounts to the board.

(c) The board is not required to report to the legislature as required in (b) of this subsection after January 1, 2025.

~~((6))~~ (7) The legislature does not intend and does not authorize any person or entity to engage in activities or to conspire to engage in activities that would constitute per se violations of state and federal antitrust laws including, but not limited to, agreements among retailers as to the selling price of any goods sold.

NEW SECTION. Sec. 2. (1) The joint legislative audit and review committee must review the tax exemption under section 1 of this act to identify any changes in consumer behavior and determine whether the exemption results in an unanticipated decrease in state revenue. The review must include:

(a) An assessment of the amount of new qualifying patients or designated providers under RCW 69.51A.010 occurring after the effective date of this section as compared to prior years;

(b) Any changes in the amount of sales of tax-exempt products identified in section 1 of this act; and

(c) Any other information the joint legislative audit and review committee deems necessary to assess any changes in consumer behavior or revenue collections resulting from the tax exemption under section 1 of this act.

(2) The joint legislative audit and review committee may access data from the department of revenue, the department of health, or any other state agency as necessary to complete its review of the tax exemption under section 1 of this act.

(3) The joint legislative audit and review committee must submit a report of its findings to the legislature by December 1, 2025.

NEW SECTION. Sec. 3. This act takes effect January 1, 2023."

Correct the title.

Signed by Representatives Frame, Chair; Berg, Vice Chair; Orcutt, Ranking Minority Member; Chase; Chopp; Harris-Talley; Morgan; Orwall; Ramel; Springer; Stokesbary; Thai; Vick and Wylie.

MINORITY recommendation: Do not pass. Signed by Representative Dufault, Assistant Ranking Minority Member.

MINORITY recommendation: Without recommendation. Signed by Representative Walen, Vice Chair.

Referred to Committee on Rules for second reading.

February 24, 2022

ESB 5054 Prime Sponsor, Senator Padden: Concerning impaired driving. Reported by Committee on Public Safety

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 9.94A RCW to read as follows:

(1) An offender is eligible for the special drug offender sentencing alternative for driving under the influence if the offender:

(a) Does not have a prior conviction under RCW 46.61.520, 46.61.522, 46.61.502(6), or 46.61.504(6); and either

(b) Is convicted of felony driving while under the influence of intoxicating liquor, marijuana, or any drug under RCW 46.61.502(6) (a); or

(c) Is convicted of felony physical control of a vehicle while under the influence of intoxicating liquor or any drug under RCW 46.61.504(6) (a).

(2) A motion for a special drug offender sentencing alternative for driving under the influence may be made by the court, the offender, or the state if the midpoint of the standard sentence range is 26 months or less. If an offender has a higher midpoint, a motion for a special drug offender sentencing alternative for driving under the influence can only be made by joint agreement of the state and offender.

(3) If the sentencing court determines that the offender is eligible for an alternative sentence under this section and that the alternative sentence is appropriate, the court shall waive imposition of a sentence within the standard sentence range and:

(a) Impose a sentence equivalent to a prison-based alternative under RCW 9.94A.662, and subject to the same requirements and restrictions as are

established in that section, if the low end of the standard sentence range is greater than 24 months; or

(b) Impose a sentence consisting of a residential treatment-based alternative consistent with this section if the low end of the standard sentence range is 24 months or less.

(4) (a) To assist the court in making its determination, the court may order the department to complete either a risk assessment report or a substance use disorder screening report as provided in RCW 9.94A.500, or both.

(b) If the court is considering imposing a sentence under the residential substance use disorder treatment-based alternative, the court may order an examination of the offender by the department. The examination shall, at a minimum, address the following issues:

(i) Whether the offender suffers from a substance use disorder;

(ii) Whether effective treatment for the offender's substance use disorder is available from a provider that has been licensed or certified by the department of health; and

(iii) Whether the offender and the community will benefit from the use of the alternative.

(5) An offender who is eligible for a residential treatment-based alternative under this section shall be sentenced as follows:

(a) If necessary, an indeterminate term of confinement of no more than 30 days in a facility operated, licensed, or utilized under contract, by the county in order to facilitate direct transfer to a residential substance use disorder treatment facility;

(b) Treatment in a residential substance use disorder treatment program licensed or certified by the department of health for a period set by the court up to six months with treatment completion and continued care delivered in accordance with rules established by the department of health. In establishing rules pursuant to this subsection, the department of health must consider criteria established by the American society of addiction medicine;

(c) Twenty-four months of partial confinement to consist of 12 months work release followed by 12 months of home

detention with electronic monitoring;
and

(d) Twelve months of community custody.

(6)(a) During any period of partial confinement or community custody, the court shall impose treatment and other conditions as provided in RCW 9.94A.703 or as the court considers appropriate.

(b) The department may impose conditions and sanctions as authorized in RCW 9.94A.704 and 9.94A.737.

(c) The department shall, within available resources, make substance use disorder assessment and treatment services available to the offender.

(d) An offender sentenced to community custody under subsection (3)(a) of this section as part of the prison-based alternative or under subsection (3)(b) of this section as part of the residential treatment-based alternative may be required to pay \$30 per month while on community custody to offset the cost of monitoring for alcohol or controlled substances.

(7)(a) If the court imposes a sentence under subsection (3)(b) of this section, the treatment provider must send the treatment plan to the court within 30 days of the offender's arrival to the residential substance use disorder treatment program.

(b) Upon receipt of the plan, the court shall schedule a progress hearing during the period of treatment and schedule a treatment termination hearing for three months before the expiration of the term of community custody.

(c) Before the progress hearing and treatment termination hearing, the treatment provider and the department shall submit written reports to the court and parties regarding the offender's compliance with treatment and monitoring requirements and recommendations regarding termination from treatment.

(8) At a progress hearing or treatment termination hearing, the court may:

(a) Authorize the department to terminate the offender's community custody status on the expiration date determined under subsection (7) of this section;

(b) Continue the hearing to a date before the expiration date of community custody, with or without modifying the

conditions of partial confinement or community custody; or

(c) Impose a term of total confinement equal to one-half the midpoint of the standard sentence range, followed by a term of community custody under RCW 9.94A.701.

(9)(a) The court may bring any offender sentenced under subsection (3)(a) or (b) of this section back into court at any time on its own initiative to evaluate the offender's progress in treatment or to determine if any violations of the conditions of the sentence have occurred.

(b) If the offender is brought back to court, the court may modify the conditions of partial confinement or community custody or order the offender to serve a term of total confinement within the standard sentence range of the offender's current offense at any time during the period of partial confinement or community custody if the offender violates the conditions or requirements of the sentence or if the offender is failing to make satisfactory progress in treatment.

(c) An offender ordered to serve a term of total confinement under (b) of this subsection shall receive credit for any time previously served in total confinement or residential treatment under this section and shall receive 50 percent credit for any time previously served in partial confinement or community custody under this section.

(10) In serving a term of community custody imposed upon failure to complete, or administrative termination from, the special drug offender sentencing alternative program for driving under the influence under this section, the offender shall receive no credit for time served in community custody prior to termination of the offender's participation in the program.

(11) An offender sentenced under this section shall be subject to all rules relating to earned release time with respect to any period served in total or partial confinement.

(12) Costs of examinations and preparing the recommended service delivery plans under a special drug offender sentencing alternative for driving under the influence may be paid, at the option of the county, from funds provided to the county from the criminal

justice treatment account under RCW 71.24.580.

Sec. 2. RCW 9.94A.030 and 2021 c 237 s 1 and 2021 c 215 s 97 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) "Board" means the indeterminate sentence review board created under chapter 9.95 RCW.

(2) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department, means that the department, either directly or through a collection agreement authorized by RCW 9.94A.760, is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(3) "Commission" means the sentencing guidelines commission.

(4) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(5) "Community custody" means that portion of an offender's sentence of confinement in lieu of earned release time or imposed as part of a sentence under this chapter and served in the community subject to controls placed on the offender's movement and activities by the department.

(6) "Community protection zone" means the area within eight hundred eighty feet of the facilities and grounds of a public or private school.

(7) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(8) "Confinement" means total or partial confinement.

(9) "Conviction" means an adjudication of guilt pursuant to Title 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(10) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct. However, affirmative acts necessary to monitor compliance with the order of a court may be required by the department.

(11) "Criminal history" means the list of a defendant's prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere, and any issued certificates of restoration of opportunity pursuant to RCW 9.97.020.

(a) The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) A conviction may be removed from a defendant's criminal history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or a similar out-of-state statute, or if the conviction has been vacated pursuant to a governor's pardon. However, when a defendant is charged with a recidivist offense, "criminal history" includes a vacated prior conviction for the sole purpose of establishing that such vacated prior conviction constitutes an element of the present recidivist offense as provided in RCW 9.94A.640(4)(b) and 9.96.060(7)(c).

(c) The determination of a defendant's criminal history is distinct from the determination of an offender score. A prior conviction that was not included in an offender score calculated pursuant to a former version of the sentencing reform act remains part of the defendant's criminal history.

(12) "Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having a common name or common identifying sign or symbol, having as one of its primary activities the commission of criminal acts, and whose members or associates individually or collectively engage in or have engaged in a pattern of criminal street gang activity. This definition does not apply to employees engaged in concerted

activities for their mutual aid and protection, or to the activities of labor and bona fide nonprofit organizations or their members or agents.

(13) "Criminal street gang associate or member" means any person who actively participates in any criminal street gang and who intentionally promotes, furthers, or assists in any criminal act by the criminal street gang.

(14) "Criminal street gang-related offense" means any felony or misdemeanor offense, whether in this state or elsewhere, that is committed for the benefit of, at the direction of, or in association with any criminal street gang, or is committed with the intent to promote, further, or assist in any criminal conduct by the gang, or is committed for one or more of the following reasons:

(a) To gain admission, prestige, or promotion within the gang;

(b) To increase or maintain the gang's size, membership, prestige, dominance, or control in any geographical area;

(c) To exact revenge or retribution for the gang or any member of the gang;

(d) To obstruct justice, or intimidate or eliminate any witness against the gang or any member of the gang;

(e) To directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage for the gang, its reputation, influence, or membership; or

(f) To provide the gang with any advantage in, or any control or dominance over any criminal market sector, including, but not limited to, manufacturing, delivering, or selling any controlled substance (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter 9.68 RCW).

(15) "Day fine" means a fine imposed by the sentencing court that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

(16) "Day reporting" means a program of enhanced supervision designed to monitor the offender's daily activities and compliance with sentence conditions, and in which the offender is required to report daily to a specific location designated by the department or the sentencing court.

(17) "Department" means the department of corrections.

(18) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community custody, the number of actual hours or days of community restitution work, or dollars or terms of a legal financial obligation. The fact that an offender through earned release can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(19) "Disposable earnings" means that part of the earnings of an offender remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(20)(a) "Domestic violence" has the same meaning as defined in RCW 10.99.020.

(b) "Domestic violence" also means: (i) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault, sexual assault, or stalking, as defined in RCW 9A.46.110, of one intimate partner by another intimate partner as defined in RCW 10.99.020; or (ii) physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault, sexual assault, or stalking, as defined in RCW 9A.46.110, of one family or household member by another family or

household member as defined in RCW 10.99.020.

(21) "Drug offender sentencing alternative" is a sentencing option available to persons convicted of a felony offense who are eligible for the option under RCW 9.94A.660.

(22) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.4013) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(23) "Earned release" means earned release from confinement as provided in RCW 9.94A.728.

(24) "Electronic monitoring" means tracking the location of an individual through the use of technology that is capable of determining or identifying the monitored individual's presence or absence at a particular location including, but not limited to:

(a) Radio frequency signaling technology, which detects if the monitored individual is or is not at an approved location and notifies the monitoring agency of the time that the monitored individual either leaves the approved location or tampers with or removes the monitoring device; or

(b) Active or passive global positioning system technology, which detects the location of the monitored individual and notifies the monitoring agency of the monitored individual's location and which may also include electronic monitoring with victim notification technology that is capable of notifying a victim or protected party, either directly or through a monitoring agency, if the monitored individual enters within the restricted distance of a victim or protected party, or within the restricted distance of a designated location.

(25) "Escape" means:

(a) Sexually violent predator escape (RCW 9A.76.115), escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(26) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-run injury-accident (RCW 46.52.020(4)), felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(27) "Fine" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specific period of time.

(28) "First-time offender" means any person who has no prior convictions for a felony and is eligible for the first-time offender waiver under RCW 9.94A.650.

(29) "Home detention" is a subset of electronic monitoring and means a program of partial confinement available to offenders wherein the offender is confined in a private residence twenty-four hours a day, unless an absence from the residence is approved, authorized, or otherwise permitted in the order by the court or other supervising agency that ordered home detention, and the offender is subject to electronic monitoring.

(30) "Homelessness" or "homeless" means a condition where an individual lacks a fixed, regular, and adequate nighttime residence and who has a primary nighttime residence that is:

(a) A supervised, publicly or privately operated shelter designed to provide temporary living accommodations;

(b) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; or

(c) A private residence where the individual stays as a transient invitee.

(31) "Legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to RCW 38.52.430.

(32) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age fourteen;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Sexual exploitation;

(p) 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;

(q) 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;

(r) Any other class B felony offense with a finding of sexual motivation;

(s) Any other felony with a deadly weapon verdict under RCW 9.94A.825;

(t) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection;

(u) (i) A prior conviction for indecent liberties under RCW 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

(ii) A prior conviction for indecent liberties under RCW 9A.44.100(1) (c) as it existed from June 11, 1986, until July 1, 1988, if: (A) The crime was committed against a child under the age of fourteen; or (B) the relationship between the victim and perpetrator is included in the definition of indecent liberties under RCW 9A.44.100(1) (c) as it existed from July 1, 1988, through July 27, 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993, through July 27, 1997;

(v) Any out-of-state conviction for a felony offense with a finding of sexual motivation if the minimum sentence

imposed was ten years or more; provided that the out-of-state felony offense must be comparable to a felony offense under this title and Title 9A RCW and the out-of-state definition of sexual motivation must be comparable to the definition of sexual motivation contained in this section.

(33) "Nonviolent offense" means an offense which is not a violent offense.

(34) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. In addition, for the purpose of community custody requirements under this chapter, "offender" also means a misdemeanor or gross misdemeanor probationer ordered by a superior court to probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and supervised by the department pursuant to RCW 9.94A.501 and 9.94A.5011. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

(35) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention, electronic monitoring, or work crew has been ordered by the court or home detention has been ordered by the department as part of the parenting program or the graduated reentry program, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, electronic monitoring, and a combination of work crew, electronic monitoring, and home detention.

(36) "Pattern of criminal street gang activity" means:

(a) The commission, attempt, conspiracy, or solicitation of, or any prior juvenile adjudication of or adult conviction of, two or more of the following criminal street gang-related offenses:

(i) Any "serious violent" felony offense as defined in this section, excluding Homicide by Abuse (RCW

9A.32.055) and Assault of a Child 1 (RCW 9A.36.120);

(ii) Any "violent" offense as defined by this section, excluding Assault of a Child 2 (RCW 9A.36.130);

(iii) Deliver or Possession with Intent to Deliver a Controlled Substance (chapter 69.50 RCW);

(iv) Any violation of the firearms and dangerous weapon act (chapter 9.41 RCW);

(v) Theft of a Firearm (RCW 9A.56.300);

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

(vii) Hate Crime (RCW 9A.36.080);

(viii) Harassment where a subsequent violation or deadly threat is made (RCW 9A.46.020(2)(b));

(ix) Criminal Gang Intimidation (RCW 9A.46.120);

(x) Any felony conviction by a person eighteen years of age or older with a special finding of involving a juvenile in a felony offense under RCW 9.94A.833;

(xi) Residential Burglary (RCW 9A.52.025);

(xii) Burglary 2 (RCW 9A.52.030);

(xiii) Malicious Mischief 1 (RCW 9A.48.070);

(xiv) Malicious Mischief 2 (RCW 9A.48.080);

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

(xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);

(xvii) Taking a Motor Vehicle Without Permission 1 (RCW 9A.56.070);

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

(xix) Extortion 1 (RCW 9A.56.120);

(xx) Extortion 2 (RCW 9A.56.130);

(xxi) Intimidating a Witness (RCW 9A.72.110);

(xxii) Tampering with a Witness (RCW 9A.72.120);

(xxiii) Reckless Endangerment (RCW 9A.36.050);

(xxiv) Coercion (RCW 9A.36.070);

(xxv) Harassment (RCW 9A.46.020); or

(xxvi) Malicious Mischief 3 (RCW 9A.48.090);

(b) That at least one of the offenses listed in (a) of this subsection shall have occurred after July 1, 2008;

(c) That the most recent committed offense listed in (a) of this subsection occurred within three years of a prior offense listed in (a) of this subsection; and

(d) Of the offenses that were committed in (a) of this subsection, the offenses occurred on separate occasions or were committed by two or more persons.

(37) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.525; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, assault of a child in the second degree, or burglary in the first degree; or (C) an attempt to commit any crime listed in this subsection (37)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection or any federal or out-

of-state offense or offense under prior Washington law that is comparable to the offenses listed in (b)(i) of this subsection. A conviction for rape of a child in the first degree constitutes a conviction under (b)(i) of this subsection only when the offender was sixteen years of age or older when the offender committed the offense. A conviction for rape of a child in the second degree constitutes a conviction under (b)(i) of this subsection only when the offender was eighteen years of age or older when the offender committed the offense.

(38) "Predatory" means: (a) The perpetrator of the crime was a stranger to the victim, as defined in this section; (b) the perpetrator established or promoted a relationship with the victim prior to the offense and the victimization of the victim was a significant reason the perpetrator established or promoted the relationship; or (c) the perpetrator was: (i) A teacher, counselor, volunteer, or other person in authority in any public or private school and the victim was a student of the school under his or her authority or supervision. For purposes of this subsection, "school" does not include home-based instruction as defined in RCW 28A.225.010; (ii) a coach, trainer, volunteer, or other person in authority in any recreational activity and the victim was a participant in the activity under his or her authority or supervision; (iii) a pastor, elder, volunteer, or other person in authority in any church or religious organization, and the victim was a member or participant of the organization under his or her authority; or (iv) a teacher, counselor, volunteer, or other person in authority providing home-based instruction and the victim was a student receiving home-based instruction while under his or her authority or supervision. For purposes of this subsection: (A) "Home-based instruction" has the same meaning as defined in RCW 28A.225.010; and (B) "teacher, counselor, volunteer, or other person in authority" does not include the parent or legal guardian of the victim.

(39) "Private school" means a school regulated under chapter 28A.195 or 28A.205 RCW.

(40) "Public school" has the same meaning as in RCW 28A.150.010.

(41) "Recidivist offense" means a felony offense where a prior conviction of the same offense or other specified offense is an element of the crime including, but not limited to:

(a) Assault in the fourth degree where domestic violence is pleaded and proven, RCW 9A.36.041(3);

(b) Cyberstalking, RCW 9.61.260(3)(a);

(c) Harassment, RCW 9A.46.020(2)(b)(i);

(d) Indecent exposure, RCW 9A.88.010(2)(c);

(e) Stalking, RCW 9A.46.110(5)(b)(i) and (iii);

(f) Telephone harassment, RCW 9.61.230(2)(a); and

(g) Violation of a no-contact or protection order, RCW 7.105.450 or former RCW 26.50.110(5).

(42) "Repetitive domestic violence offense" means any:

(a)(i) Domestic violence assault that is not a felony offense under RCW 9A.36.041;

(ii) Domestic violence violation of a no-contact order under chapter 10.99 RCW that is not a felony offense;

(iii) Domestic violence violation of a protection order under chapter 26.09, 26.26A, or 26.26B RCW or former chapter 26.50 RCW, or violation of a domestic violence protection order under chapter 7.105 RCW, that is not a felony offense;

(iv) Domestic violence harassment offense under RCW 9A.46.020 that is not a felony offense; or

(v) Domestic violence stalking offense under RCW 9A.46.110 that is not a felony offense; or

(b) Any federal, out-of-state, tribal court, military, county, or municipal conviction for an offense that under the laws of this state would be classified as a repetitive domestic violence offense under (a) of this subsection.

(43) "Restitution" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specified period of time as payment of damages. The sum may include both public and private costs.

(44) "Risk assessment" means the application of the risk instrument

recommended to the department by the Washington state institute for public policy as having the highest degree of predictive accuracy for assessing an offender's risk of reoffense.

(45) "Serious traffic offense" means:

(a) Nonfelony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), nonfelony actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

(46) "Serious violent offense" is a subcategory of violent offense and means:

(a)(i) Murder in the first degree;

(ii) Homicide by abuse;

(iii) Murder in the second degree;

(iv) Manslaughter in the first degree;

(v) Assault in the first degree;

(vi) Kidnapping in the first degree;

(vii) Rape in the first degree;

(viii) Assault of a child in the first degree; or

(ix) An attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

(47) "Sex offense" means:

(a)(i) A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.132;

(ii) A violation of RCW 9A.64.020;

(iii) A felony that is a violation of chapter 9.68A RCW other than RCW 9.68A.080;

(iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes; or

(v) A felony violation of RCW 9A.44.132(1) (failure to register as a sex offender) if the person has been convicted of violating RCW 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130 prior to June 10, 2010, on at least one prior occasion;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a sex offense in (a) of this subsection;

(c) A felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135; or

(d) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

(48) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

(49) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(50) "Statutory maximum sentence" means the maximum length of time for which an offender may be confined as punishment for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the crime, or other statute defining the maximum penalty for a crime.

(51) "Stranger" means that the victim did not know the offender twenty-four hours before the offense.

(52) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

(53) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

(54) "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.

(55) "Victim of domestic violence" means an intimate partner or household member who has been subjected to the infliction of physical harm or sexual and psychological abuse by an intimate partner or household member as part of a pattern of assaultive, coercive, and controlling behaviors directed at achieving compliance from or control over that intimate partner or household member. Domestic violence includes, but is not limited to, the offenses listed in RCW 10.99.020 and 26.50.010 committed by an intimate partner or household member against a victim who is an intimate partner or household member.

(56) "Victim of sex trafficking, prostitution, or commercial sexual abuse of a minor" means a person who has been forced or coerced to perform a commercial sex act including, but not limited to, being a victim of offenses defined in RCW 9A.40.100, 9A.88.070, 9.68A.101, and the trafficking victims protection act of 2000, 22 U.S.C. Sec. 7101 et seq.; or a person who was induced to perform a commercial sex act when they were less than 18 years of age including but not limited to the offenses defined in chapter 9.68A RCW.

(57) "Victim of sexual assault" means any person who is a victim of a sexual assault offense, nonconsensual sexual conduct, or nonconsensual sexual penetration and as a result suffers physical, emotional, financial, or psychological impacts. Sexual assault offenses include, but are not limited to, the offenses defined in chapter 9A.44 RCW.

(58) "Violent offense" means:

(a) Any of the following felonies:

(i) Any felony defined under any law as a class A felony or an attempt to commit a class A felony;

(ii) Criminal solicitation of or criminal conspiracy to commit a class A felony;

(iii) Manslaughter in the first degree;

(iv) Manslaughter in the second degree;

(v) Indecent liberties if committed by forcible compulsion;

(vi) Kidnapping in the second degree;

(vii) Arson in the second degree;

(viii) Assault in the second degree;

(ix) Assault of a child in the second degree;

(x) Extortion in the first degree;

(xi) Robbery in the second degree;

(xii) Drive-by shooting;

(xiii) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner; and

(xiv) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

(59) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community that complies with RCW 9.94A.725.

(60) "Work ethic camp" means an alternative incarceration program as provided in RCW 9.94A.690 designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

(61) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school.

(62) "Drug offender sentencing alternative for driving under the influence" is a sentencing option available to persons convicted of felony driving while under the influence of intoxicating liquor or any drug under RCW 46.61.502(6), or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug under RCW 46.61.504(6) who are eligible under section 1 of this act.

Sec. 3. RCW 9.94A.190 and 2018 c 166 s 5 are each amended to read as follows:

(1) A sentence that includes a term or terms of confinement totaling more than one year shall be served in a facility or institution operated, or utilized under contract, by the state, or in home detention pursuant to RCW 9.94A.6551 or the graduated reentry program under RCW 9.94A.733. Except as provided in subsection (3) or (5) of this section, a sentence of not more than one year of confinement shall be served in a facility operated, licensed, or utilized under contract, by the county, or if home detention or work crew has been ordered by the court, in the residence of either the offender or a member of the offender's immediate family.

(2) If a county uses a state partial confinement facility for the partial confinement of a person sentenced to confinement for not more than one year, the county shall reimburse the state for the use of the facility as provided in this subsection. The office of financial management shall set the rate of reimbursement based upon the average per diem cost per offender in the facility. The office of financial management shall determine to what extent, if any, reimbursement shall be reduced or eliminated because of funds provided by the legislature to the department for the purpose of covering the cost of county use of state partial confinement facilities. The office of financial management shall reestablish reimbursement rates each even-numbered year.

(3) A person who is sentenced for a felony to a term of not more than one year, and who is committed or returned to incarceration in a state facility on another felony conviction, either under the indeterminate sentencing laws, chapter 9.95 RCW, or under this chapter shall serve all terms of confinement, including a sentence of not more than one year, in a facility or institution

operated, or utilized under contract, by the state, consistent with the provisions of RCW 9.94A.589.

(4) Notwithstanding any other provision of this section, a sentence imposed pursuant to RCW 9.94A.660 or section 1 of this act which has a standard sentence range of over one year, regardless of length, shall be served in a facility or institution operated, or utilized under contract, by the state.

(5) Sentences imposed pursuant to RCW 9.94A.507 shall be served in a facility or institution operated, or utilized under contract, by the state.

Sec. 4. RCW 9.94A.501 and 2021 c 242 s 2 are each amended to read as follows:

(1) The department shall supervise the following offenders who are sentenced to probation in superior court, pursuant to RCW 9.92.060, 9.95.204, or 9.95.210:

(a) Offenders convicted of:

(i) Sexual misconduct with a minor second degree;

(ii) Custodial sexual misconduct second degree;

(iii) Communication with a minor for immoral purposes; and

(iv) Violation of RCW 9A.44.132(2) (failure to register); and

(b) Offenders who have:

(i) A current conviction for a repetitive domestic violence offense where domestic violence has been pleaded and proven after August 1, 2011; and

(ii) A prior conviction for a repetitive domestic violence offense or domestic violence felony offense where domestic violence has been pleaded and proven after August 1, 2011.

(2) Misdemeanor and gross misdemeanor offenders supervised by the department pursuant to this section shall be placed on community custody.

(3) The department shall supervise every felony offender sentenced to community custody pursuant to RCW 9.94A.701 or 9.94A.702 whose risk assessment classifies the offender as one who is at a high risk to reoffend.

(4) Notwithstanding any other provision of this section, the department shall supervise an offender sentenced to

community custody regardless of risk classification if the offender:

(a) Has a current conviction for a sex offense or a serious violent offense and was sentenced to a term of community custody pursuant to RCW 9.94A.701, 9.94A.702, or 9.94A.507;

(b) Has been identified by the department as a dangerous mentally ill offender pursuant to RCW 72.09.370;

(c) Has an indeterminate sentence and is subject to parole pursuant to RCW 9.95.017;

(d) Has a current conviction for violating RCW 9A.44.132(1) (failure to register) and was sentenced to a term of community custody pursuant to RCW 9.94A.701;

(e)(i) Has a current conviction for a domestic violence felony offense where domestic violence has been pleaded and proven after August 1, 2011, and a prior conviction for a repetitive domestic violence offense or domestic violence felony offense where domestic violence was pleaded and proven after August 1, 2011. This subsection (4)(e)(i) applies only to offenses committed prior to July 24, 2015;

(ii) Has a current conviction for a domestic violence felony offense where domestic violence was pleaded and proven. The state and its officers, agents, and employees shall not be held criminally or civilly liable for its supervision of an offender under this subsection (4)(e)(ii) unless the state and its officers, agents, and employees acted with gross negligence;

(f) Was sentenced under RCW 9.94A.650, 9.94A.655, 9.94A.660, 9.94A.670, 9.94A.711, ~~((or))~~ 9.94A.695, or section 1 of this act;

(g) Is subject to supervision pursuant to RCW 9.94A.745; or

(h) Was convicted and sentenced under RCW 46.61.520 (vehicular homicide), RCW 46.61.522 (vehicular assault), RCW 46.61.502(6) (felony DUI), or RCW 46.61.504(6) (felony physical control).

(5) The department shall supervise any offender who is released by the indeterminate sentence review board and who was sentenced to community custody or subject to community custody under the terms of release.

(6) The department is not authorized to, and may not, supervise any offender sentenced to a term of community custody or any probationer unless the offender or probationer is one for whom supervision is required under this section or RCW 9.94A.5011.

(7) The department shall conduct a risk assessment for every felony offender sentenced to a term of community custody who may be subject to supervision under this section or RCW 9.94A.5011.

(8) The period of time the department is authorized to supervise an offender under this section may not exceed the duration of community custody specified under RCW 9.94B.050, 9.94A.701 (1) through (9), or 9.94A.702, except in cases where the court has imposed an exceptional term of community custody under RCW 9.94A.535.

(9) The period of time the department is authorized to supervise an offender under this section may be reduced by the earned award of supervision compliance credit pursuant to RCW 9.94A.717.

Sec. 5. RCW 9.94A.505 and 2021 c 242 s 3 are each amended to read as follows:

(1) When a person is convicted of a felony, the court shall impose punishment as provided in this chapter.

(2)(a) The court shall impose a sentence as provided in the following sections and as applicable in the case:

(i) Unless another term of confinement applies, a sentence within the standard sentence range established in RCW 9.94A.510 or 9.94A.517;

(ii) RCW 9.94A.701 and 9.94A.702, relating to community custody;

(iii) RCW 9.94A.570, relating to persistent offenders;

(iv) RCW 9.94A.540, relating to mandatory minimum terms;

(v) RCW 9.94A.650, relating to the first-time offender waiver;

(vi) RCW 9.94A.660, relating to the drug offender sentencing alternative;

(vii) Section 1 of this act, relating to the drug offender sentencing alternative for driving under the influence;

(viii) RCW 9.94A.670, relating to the special sex offender sentencing alternative;

~~((viii))~~ (ix) RCW 9.94A.655, relating to the parenting sentencing alternative;

~~((ix))~~ (x) RCW 9.94A.695, relating to the mental health sentencing alternative;

~~((x))~~ (xi) RCW 9.94A.507, relating to certain sex offenses;

~~((xi))~~ (xii) RCW 9.94A.535, relating to exceptional sentences;

~~((xii))~~ (xiii) RCW 9.94A.589, relating to consecutive and concurrent sentences;

~~((xiii))~~ (xiv) RCW 9.94A.603, relating to felony driving while under the influence of intoxicating liquor or any drug and felony physical control of a vehicle while under the influence of intoxicating liquor or any drug;

~~((xiv))~~ (xv) RCW 9.94A.711, relating to the theft or taking of a motor vehicle.

(b) If a standard sentence range has not been established for the offender's crime, the court shall impose a determinate sentence which may include not more than one year of confinement; community restitution work; a term of community custody under RCW 9.94A.702 not to exceed one year; and/or other legal financial obligations. The court may impose a sentence which provides more than one year of confinement and a community custody term under RCW 9.94A.701 if the court finds reasons justifying an exceptional sentence as provided in RCW 9.94A.535.

(3) If the court imposes a sentence requiring confinement of thirty days or less, the court may, in its discretion, specify that the sentence be served on consecutive or intermittent days. A sentence requiring more than thirty days of confinement shall be served on consecutive days. Local jail administrators may schedule court-ordered intermittent sentences as space permits.

(4) If a sentence imposed includes payment of a legal financial obligation, it shall be imposed as provided in RCW 9.94A.750, 9.94A.753, 9.94A.760, and 43.43.7541.

(5) Except as provided under RCW 9.94A.750(4) and 9.94A.753(4), a court may not impose a sentence providing for a term of confinement or community

custody that exceeds the statutory maximum for the crime as provided in chapter 9A.20 RCW.

(6) The sentencing court shall give the offender credit for all confinement time served before the sentencing if that confinement was solely in regard to the offense for which the offender is being sentenced.

(7) The sentencing court shall not give the offender credit for any time the offender was required to comply with an electronic monitoring program prior to sentencing if the offender was convicted of one of the following offenses:

(a) A violent offense;

(b) Any sex offense;

(c) Any drug offense;

(d) Reckless burning in the first or second degree as defined in RCW 9A.48.040 or 9A.48.050;

(e) Assault in the third degree as defined in RCW 9A.36.031;

(f) Assault of a child in the third degree;

(g) Unlawful imprisonment as defined in RCW 9A.40.040; or

(h) Harassment as defined in RCW 9A.46.020.

(8) The court shall order restitution as provided in RCW 9.94A.750 and 9.94A.753.

(9) As a part of any sentence, the court may impose and enforce crime-related prohibitions and affirmative conditions as provided in this chapter. "Crime-related prohibitions" may include a prohibition on the use or possession of alcohol or controlled substances if the court finds that any chemical dependency or substance abuse contributed to the offense.

(10) In any sentence of partial confinement, the court may require the offender to serve the partial confinement in work release, in a program of home detention, on work crew, or in a combined program of work crew and home detention.

Sec. 6. RCW 9.94A.525 and 2021 c 215 s 100 are each amended to read as follows:

The offender score is measured on the horizontal axis of the sentencing grid. The offender score rules are as follows:

The offender score is the sum of points accrued under this section rounded down to the nearest whole number.

(1) A prior conviction is a conviction which exists before the date of sentencing for the offense for which the offender score is being computed. Convictions entered or sentenced on the same date as the conviction for which the offender score is being computed shall be deemed "other current offenses" within the meaning of RCW 9.94A.589.

(2)(a) Class A and sex prior felony convictions shall always be included in the offender score.

(b) Class B prior felony convictions other than sex offenses shall not be included in the offender score, if since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent ten consecutive years in the community without committing any crime that subsequently results in a conviction.

(c) Except as provided in (e) of this subsection, class C prior felony convictions other than sex offenses shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent five consecutive years in the community without committing any crime that subsequently results in a conviction.

(d) Except as provided in (e) of this subsection, serious traffic convictions shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a conviction, if any, or entry of judgment and sentence, the offender spent five years in the community without committing any crime that subsequently results in a conviction.

(e) If the present conviction is felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)) or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)), all predicate crimes for the offense as defined by RCW 46.61.5055(14) shall be included in the offender score, and prior convictions for

felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)) or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)) shall always be included in the offender score. All other convictions of the defendant shall be scored according to this section.

(f) Prior convictions for a repetitive domestic violence offense, as defined in RCW 9.94A.030, shall not be included in the offender score if, since the last date of release from confinement or entry of judgment and sentence, the offender had spent ten consecutive years in the community without committing any crime that subsequently results in a conviction.

(g) This subsection applies to both adult and juvenile prior convictions.

(3) Out-of-state convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. Federal convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. If there is no clearly comparable offense under Washington law or the offense is one that is usually considered subject to exclusive federal jurisdiction, the offense shall be scored as a class C felony equivalent if it was a felony under the relevant federal statute.

(4) Score prior convictions for felony anticipatory offenses (attempts, criminal solicitations, and criminal conspiracies) the same as if they were convictions for completed offenses.

(5)(a) In the case of multiple prior convictions, for the purpose of computing the offender score, count all convictions separately, except:

(i) Prior offenses which were found, under RCW 9.94A.589(1)(a), to encompass the same criminal conduct, shall be counted as one offense, the offense that yields the highest offender score. The current sentencing court shall determine with respect to other prior adult offenses for which sentences were served concurrently or prior juvenile offenses for which sentences were served consecutively, whether those offenses shall be counted as one offense or as separate offenses using the "same criminal conduct" analysis found in RCW 9.94A.589(1)(a), and if the court finds

that they shall be counted as one offense, then the offense that yields the highest offender score shall be used. The current sentencing court may presume that such other prior offenses were not the same criminal conduct from sentences imposed on separate dates, or in separate counties or jurisdictions, or in separate complaints, indictments, or informations;

(ii) In the case of multiple prior convictions for offenses committed before July 1, 1986, for the purpose of computing the offender score, count all adult convictions served concurrently as one offense, and count all juvenile convictions entered on the same date as one offense. Use the conviction for the offense that yields the highest offender score.

(b) As used in this subsection (5), "served concurrently" means that: (i) The latter sentence was imposed with specific reference to the former; (ii) the concurrent relationship of the sentences was judicially imposed; and (iii) the concurrent timing of the sentences was not the result of a probation or parole revocation on the former offense.

(6) If the present conviction is one of the anticipatory offenses of criminal attempt, solicitation, or conspiracy, count each prior conviction as if the present conviction were for a completed offense. When these convictions are used as criminal history, score them the same as a completed crime.

(7) If the present conviction is for a nonviolent offense and not covered by subsection (11), (12), or (13) of this section, count one point for each adult prior felony conviction and one point for each juvenile prior violent felony conviction and 1/2 point for each juvenile prior nonviolent felony conviction.

(8) If the present conviction is for a violent offense and not covered in subsection (9), (10), (11), (12), or (13) of this section, count two points for each prior adult and juvenile violent felony conviction, one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.

(9) If the present conviction is for a serious violent offense, count three points for prior adult and juvenile convictions for crimes in this category, two points for each prior adult and

juvenile violent conviction (not already counted), one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.

(10) If the present conviction is for Burglary 1, count prior convictions as in subsection (8) of this section; however count two points for each prior adult Burglary 2 or residential burglary conviction, and one point for each prior juvenile Burglary 2 or residential burglary conviction.

(11) If the present conviction is for a felony traffic offense count two points for each adult or juvenile prior conviction for Vehicular Homicide or Vehicular Assault; for each felony offense count one point for each adult and 1/2 point for each juvenile prior conviction; for each serious traffic offense, other than those used for an enhancement pursuant to RCW 46.61.520(2), count one point for each adult and 1/2 point for each juvenile prior conviction; count one point for each adult and 1/2 point for each juvenile prior conviction for operation of a vessel while under the influence of intoxicating liquor or any drug; count one point for a deferred prosecution granted under chapter 10.05 RCW for a second or subsequent violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance.

(12) If the present conviction is for homicide by watercraft or assault by watercraft count two points for each adult or juvenile prior conviction for homicide by watercraft or assault by watercraft; for each felony offense count one point for each adult and 1/2 point for each juvenile prior conviction; count one point for each adult and 1/2 point for each juvenile prior conviction for driving under the influence of intoxicating liquor or any drug, actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug, or operation of a vessel while under the influence of intoxicating liquor or any drug.

(13) If the present conviction is for manufacture of methamphetamine count three points for each adult prior manufacture of methamphetamine conviction and two points for each juvenile manufacture of methamphetamine offense. If the present conviction is for a drug offense and the offender has a criminal history that includes a sex

offense or serious violent offense, count three points for each adult prior felony drug offense conviction and two points for each juvenile drug offense. All other adult and juvenile felonies are scored as in subsection (8) of this section if the current drug offense is violent, or as in subsection (7) of this section if the current drug offense is nonviolent.

(14) If the present conviction is for Escape from Community Custody, RCW 72.09.310, count only prior escape convictions in the offender score. Count adult prior escape convictions as one point and juvenile prior escape convictions as 1/2 point.

(15) If the present conviction is for Escape 1, RCW 9A.76.110, or Escape 2, RCW 9A.76.120, count adult prior convictions as one point and juvenile prior convictions as 1/2 point.

(16) If the present conviction is for Burglary 2 or residential burglary, count priors as in subsection (7) of this section; however, count two points for each adult and juvenile prior Burglary 1 conviction, two points for each adult prior Burglary 2 or residential burglary conviction, and one point for each juvenile prior Burglary 2 or residential burglary conviction.

(17) If the present conviction is for a sex offense, count priors as in subsections (7) through (11) and (13) through (16) of this section; however count three points for each adult and juvenile prior sex offense conviction.

(18) If the present conviction is for failure to register as a sex offender under RCW 9A.44.130 or 9A.44.132, count priors as in subsections (7) through (11) and (13) through (16) of this section; however count three points for each adult and juvenile prior sex offense conviction, excluding prior convictions for failure to register as a sex offender under RCW 9A.44.130 or 9A.44.132, which shall count as one point.

(19) If the present conviction is for an offense committed while the offender was under community custody, add one point. For purposes of this subsection, community custody includes community placement or postrelease supervision, as defined in chapter 9.94B RCW.

(20) If the present conviction is for Theft of a Motor Vehicle, Possession of a Stolen Vehicle, Taking a Motor Vehicle Without Permission 1, or Taking a Motor

Vehicle Without Permission 2, count priors as in subsections (7) through (18) of this section; however count one point for prior convictions of Vehicle Prowling 2, and three points for each adult and juvenile prior Theft 1 (of a motor vehicle), Theft 2 (of a motor vehicle), Possession of Stolen Property 1 (of a motor vehicle), Possession of Stolen Property 2 (of a motor vehicle), Theft of a Motor Vehicle, Possession of a Stolen Vehicle, Taking a Motor Vehicle Without Permission 1, or Taking a Motor Vehicle Without Permission 2 conviction.

(21) If the present conviction is for a felony domestic violence offense where domestic violence as defined in RCW 9.94A.030 was pleaded and proven, count priors as in subsections (7) through (20) of this section; however, count points as follows:

(a) Count two points for each adult prior conviction where domestic violence as defined in RCW 9.94A.030 was pleaded and proven after August 1, 2011, for any of the following offenses: A felony violation of a no-contact or protection order (RCW 7.105.450 or former RCW 26.50.110), felony Harassment (RCW 9A.46.020(2)(b)), felony Stalking (RCW 9A.46.110(5)(b)), Burglary 1 (RCW 9A.52.020), Kidnapping 1 (RCW 9A.40.020), Kidnapping 2 (RCW 9A.40.030), Unlawful imprisonment (RCW 9A.40.040), Robbery 1 (RCW 9A.56.200), Robbery 2 (RCW 9A.56.210), Assault 1 (RCW 9A.36.011), Assault 2 (RCW 9A.36.021), Assault 3 (RCW 9A.36.031), Arson 1 (RCW 9A.48.020), or Arson 2 (RCW 9A.48.030);

(b) Count two points for each adult prior conviction where domestic violence as defined in RCW 9.94A.030 was pleaded and proven after July 23, 2017, for any of the following offenses: Assault of a child in the first degree, RCW 9A.36.120; Assault of a child in the second degree, RCW 9A.36.130; Assault of a child in the third degree, RCW 9A.36.140; Criminal Mistreatment in the first degree, RCW 9A.42.020; or Criminal Mistreatment in the second degree, RCW 9A.42.030;

(c) Count one point for each second and subsequent juvenile conviction where domestic violence as defined in RCW 9.94A.030 was pleaded and proven after August 1, 2011, for the offenses listed in (a) of this subsection; and

(d) Count one point for each adult prior conviction for a repetitive domestic violence offense as defined in

RCW 9.94A.030, where domestic violence as defined in RCW 9.94A.030, was pleaded and proven after August 1, 2011.

(22) The fact that a prior conviction was not included in an offender's offender score or criminal history at a previous sentencing shall have no bearing on whether it is included in the criminal history or offender score for the current offense. Prior convictions that were not counted in the offender score or included in criminal history under repealed or previous versions of the sentencing reform act shall be included in criminal history and shall count in the offender score if the current version of the sentencing reform act requires including or counting those convictions. Prior convictions that were not included in criminal history or in the offender score shall be included upon any resentencing to ensure imposition of an accurate sentence.

Sec. 7. RCW 9.94A.633 and 2021 c 242 s 4 are each amended to read as follows:

(1)(a) An offender who violates any condition or requirement of a sentence may be sanctioned by the court with up to sixty days' confinement for each violation or by the department with up to thirty days' confinement as provided in RCW 9.94A.737.

(b) In lieu of confinement, an offender may be sanctioned with work release, home detention with electronic monitoring, work crew, community restitution, inpatient treatment, daily reporting, curfew, educational or counseling sessions, supervision enhanced through electronic monitoring, or any other community-based sanctions.

(2) If an offender was under community custody pursuant to one of the following statutes, the offender may be sanctioned as follows:

(a) If the offender was transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.728, the offender may be transferred to a more restrictive confinement status to serve up to the remaining portion of the sentence, less credit for any period actually spent in community custody or in detention awaiting disposition of an alleged violation.

(b) If the offender was sentenced under the drug offender sentencing alternative set out in RCW 9.94A.660, the

offender may be sanctioned in accordance with that section.

(c) If the offender was sentenced under the drug offender sentencing alternative for driving under the influence set out in section 1 of this act, the offender may be sanctioned in accordance with that section.

(d) If the offender was sentenced under the parenting sentencing alternative set out in RCW 9.94A.655, the offender may be sanctioned in accordance with that section.

~~((d))~~ (e) If the offender was sentenced under the special sex offender sentencing alternative set out in RCW 9.94A.670, the suspended sentence may be revoked and the offender committed to serve the original sentence of confinement.

~~((e))~~ (f) If the offender was sentenced under the mental health sentencing alternative set out in RCW 9.94A.695, the offender may be sanctioned in accordance with that section.

~~((f))~~ (g) If the offender was sentenced to a work ethic camp pursuant to RCW 9.94A.690, the offender may be reclassified to serve the unexpired term of his or her sentence in total confinement.

~~((g))~~ (h) If a sex offender was sentenced pursuant to RCW 9.94A.507, the offender may be transferred to a more restrictive confinement status to serve up to the remaining portion of the sentence, less credit for any period actually spent in community custody or in detention awaiting disposition of an alleged violation.

(3) If a probationer is being supervised by the department pursuant to RCW 9.92.060, 9.95.204, or 9.95.210, the probationer may be sanctioned pursuant to subsection (1) of this section. The department shall have authority to issue a warrant for the arrest of an offender who violates a condition of community custody, as provided in RCW 9.94A.716. Any sanctions shall be imposed by the department pursuant to RCW 9.94A.737. Nothing in this subsection is intended to limit the power of the sentencing court to respond to a probationer's violation of conditions.

(4) The parole or probation of an offender who is charged with a new felony offense may be suspended and the offender

placed in total confinement pending disposition of the new criminal charges if:

(a) The offender is on parole pursuant to RCW 9.95.110(1); or

(b) The offender is being supervised pursuant to RCW 9.94A.745 and is on parole or probation pursuant to the laws of another state.

Sec. 8. RCW 9.94A.6332 and 2021 c 242 s 5 are each amended to read as follows:

The procedure for imposing sanctions for violations of sentence conditions or requirements is as follows:

(1) If the offender was sentenced under the drug offender sentencing alternative, any sanctions shall be imposed by the department or the court pursuant to RCW 9.94A.660.

(2) If the offender was sentenced under the drug offender sentencing alternative for driving under the influence, any sanctions shall be imposed by the department or the court pursuant to section 1 of this act.

(3) If the offender was sentenced under the special sex offender sentencing alternative, any sanctions shall be imposed by the department or the court pursuant to RCW 9.94A.670.

~~((3))~~ (4) If the offender was sentenced under the parenting sentencing alternative, any sanctions shall be imposed by the department or by the court pursuant to RCW 9.94A.655.

~~((4))~~ (5) If the offender was sentenced under the mental health sentencing alternative, any sanctions shall be imposed by the department or the court pursuant to RCW 9.94A.695.

~~((5))~~ (6) If a sex offender was sentenced pursuant to RCW 9.94A.507, any sanctions shall be imposed by the board pursuant to RCW 9.95.435.

~~((6))~~ (7) If the offender was released pursuant to RCW 9.94A.730, any sanctions shall be imposed by the board pursuant to RCW 9.95.435.

~~((7))~~ (8) If the offender was sentenced pursuant to RCW 10.95.030(3) or 10.95.035, any sanctions shall be imposed by the board pursuant to RCW 9.95.435.

~~((8))~~ (9) In any other case, if the offender is being supervised by the department, any sanctions shall be

imposed by the department pursuant to RCW 9.94A.737. If a probationer is being supervised by the department pursuant to RCW 9.92.060, 9.95.204, or 9.95.210, upon receipt of a violation hearing report from the department, the court retains any authority that those statutes provide to respond to a probationer's violation of conditions.

~~((9))~~ (10) If the offender is not being supervised by the department, any sanctions shall be imposed by the court pursuant to RCW 9.94A.6333.

Sec. 9. RCW 9.94A.660 and 2021 c 215 s 102 are each amended to read as follows:

(1) An offender is eligible for the special drug offender sentencing alternative if:

(a) The offender is convicted of a felony that is not a violent offense and the violation does not involve a sentence enhancement under RCW 9.94A.533 (3) or (4);

(b) The offender is convicted of a felony that is not a felony driving while under the influence of intoxicating liquor or any drug under RCW 46.61.502(6) or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug under RCW 46.61.504(6);

(c) The offender has no current or prior convictions for a sex offense for which the offender is currently or may be required to register pursuant to RCW 9A.44.130;

(d) The offender has no prior convictions in this state, and no prior convictions for an equivalent out-of-state or federal offense, for the following offenses during the following time frames:

(i) Robbery in the second degree that did not involve the use of a firearm and was not reduced from robbery in the first degree within seven years before conviction of the current offense; or

(ii) Any other violent offense within ten years before conviction of the current offense;

(e) For a violation of the uniform controlled substances act under chapter 69.50 RCW or a criminal solicitation to commit such a violation under chapter 9A.28 RCW, the offense involved only a small quantity of the particular

controlled substance as determined by the judge upon consideration of such factors as the weight, purity, packaging, sale price, and street value of the controlled substance;

(f) The offender has not been found by the United States attorney general to be subject to a deportation detainer or order and does not become subject to a deportation order during the period of the sentence; and

(g) The offender has not received a drug offender sentencing alternative under this section, or a drug offender sentencing alternative for driving under the influence under section 1 of this act, more than once in the prior ten years before the current offense.

(2) A motion for a special drug offender sentencing alternative may be made by the court, the offender, or the state.

(3) If the sentencing court determines that the offender is eligible for an alternative sentence under this section and that the alternative sentence is appropriate, the court shall waive imposition of a sentence within the standard sentence range and impose a sentence consisting of either a prison-based alternative under RCW 9.94A.662 or a residential substance use disorder treatment-based alternative under RCW 9.94A.664. The residential substance use disorder treatment-based alternative is only available if the midpoint of the standard sentence range is twenty-six months or less.

(4)(a) To assist the court in making its determination, the court may order the department to complete either or both a risk assessment report and a substance use disorder screening report as provided in RCW 9.94A.500.

(b) To assist the court in making its determination in domestic violence cases, the court shall order the department to complete a presentence investigation and a chemical dependency screening report as provided in RCW 9.94A.500, unless otherwise specifically waived by the court.

(5) If the court is considering imposing a sentence under the residential substance use disorder treatment-based alternative, the court may order an examination of the offender by the department. The examination must be performed by an agency licensed or

certified by the department of health to provide substance use disorder services. The examination shall, at a minimum, address the following issues:

(a) Whether the offender suffers from a substance use disorder;

(b) Whether the substance use disorder is such that there is a probability that criminal behavior will occur in the future;

(c) Whether effective treatment for the offender's substance use disorder is available from a provider that has been licensed or certified by the department of health, and where applicable, whether effective domestic violence perpetrator treatment is available from a state-certified domestic violence treatment provider pursuant to RCW 43.20A.735; and

(d) Whether the offender and the community will benefit from the use of the alternative.

(6) When a court imposes a sentence of community custody under this section:

(a) The court may impose conditions as provided in RCW 9.94A.703 and may impose other affirmative conditions as the court considers appropriate. In addition, an offender may be required to pay thirty dollars per month while on community custody to offset the cost of monitoring for alcohol or controlled substances, or in cases of domestic violence for monitoring with global positioning system technology for compliance with a no-contact order.

(b) The department may impose conditions and sanctions as authorized in RCW 9.94A.704 and 9.94A.737.

(7)(a) The court may bring any offender sentenced under this section back into court at any time on its own initiative to evaluate the offender's progress in treatment or to determine if any violations of the conditions of the sentence have occurred.

(b) If the offender is brought back to court, the court may modify the conditions of the community custody or impose sanctions under (c) of this subsection.

(c) The court may order the offender to serve a term of total confinement within the standard sentence range of the offender's current offense at any time during the period of community custody if the offender violates the conditions or

requirements of the sentence or if the offender is failing to make satisfactory progress in treatment.

(d) An offender ordered to serve a term of total confinement under (c) of this subsection shall receive credit for time previously served in total or partial confinement and inpatient treatment under this section, and shall receive fifty percent credit for time previously served in community custody under this section.

(8) In serving a term of community custody imposed upon failure to complete, or administrative termination from, the special drug offender sentencing alternative program, the offender shall receive no credit for time served in community custody prior to termination of the offender's participation in the program.

(9) An offender sentenced under this section shall be subject to all rules relating to earned release time with respect to any period served in total confinement.

(10) The Washington state institute for public policy shall submit a report to the governor and the appropriate committees of the legislature by November 1, 2022, analyzing the effectiveness of the drug offender sentencing alternative in reducing recidivism among various offender populations. An additional report is due November 1, 2028, and every five years thereafter. The Washington state institute for public policy may coordinate with the department and the caseload forecast council in tracking data and preparing the report.

Sec. 10. RCW 9.94A.701 and 2021 c 242 s 6 are each amended to read as follows:

(1) If an offender is sentenced to the custody of the department for one of the following crimes, the court shall, in addition to the other terms of the sentence, sentence the offender to community custody for three years:

(a) A sex offense not sentenced under RCW 9.94A.507; or

(b) A serious violent offense.

(2) A court shall, in addition to the other terms of the sentence, sentence an offender to community custody for eighteen months when the court sentences the person to the custody of the department for a violent offense that is not considered a serious violent offense.

(3) A court shall, in addition to the other terms of the sentence, sentence an offender to community custody for one year when the court sentences the person to the custody of the department for:

(a) Any crime against persons under RCW 9.94A.411(2);

(b) An offense involving the unlawful possession of a firearm under RCW 9.41.040, where the offender is a criminal street gang member or associate;

(c) A felony offense under chapter 69.50 or 69.52 RCW, committed on or after July 1, 2000; or

(d) A felony violation of RCW 9A.44.132(1) (failure to register) that is the offender's first violation for a felony failure to register.

(4) If an offender is sentenced under the drug offender sentencing alternative, the court shall impose community custody as provided in:

(a) RCW 9.94A.660 and 9.94A.662 for a prison-based drug offender sentencing alternative;

(b) RCW 9.94A.660 and 9.94A.664 for a residential-based drug offender sentencing alternative;

(c) RCW 9.94A.662 and section 1(6) of this act for a prison-based drug offender sentencing alternative for driving under the influence; and

(d) Section 1 (5) and (6) of this act for a residential-based drug offender sentencing alternative for driving under the influence.

(5) If an offender is sentenced under the special sex offender sentencing alternative, the court shall impose community custody as provided in RCW 9.94A.670.

(6) If an offender is sentenced to a work ethic camp, the court shall impose community custody as provided in RCW 9.94A.690.

(7) If an offender is sentenced under the parenting sentencing alternative, the court shall impose a term of community custody as provided in RCW 9.94A.655.

(8) If the offender is sentenced under the mental health sentencing alternative, the court shall impose a term of community custody as provided in RCW 9.94A.695.

(9) If a sex offender is sentenced as a nonpersistent offender pursuant to RCW 9.94A.507, the court shall impose community custody as provided in that section.

(10) The term of community custody specified by this section shall be reduced by the court whenever an offender's standard sentence range term of confinement in combination with the term of community custody exceeds the statutory maximum for the crime as provided in RCW 9A.20.021.

Sec. 11. RCW 10.05.010 and 2019 c 263 s 701 are each amended to read as follows:

(1) In a court of limited jurisdiction a person charged with a misdemeanor or gross misdemeanor may petition the court to be considered for a deferred prosecution program. The petition shall be filed with the court at least seven days before the date set for trial but, upon a written motion and affidavit establishing good cause for the delay and failure to comply with this section, the court may waive this requirement subject to the defendant's reimbursement to the court of the witness fees and expenses due for subpoenaed witnesses who have appeared on the date set for trial.

(2) A person charged with a (~~traffic infraction, misdemeanor, or gross misdemeanor under Title 46 RCW, or a~~) misdemeanor or gross misdemeanor domestic violence offense, or a violation of RCW 46.61.502 or 46.61.504, shall not be eligible for a deferred prosecution program unless the court makes specific findings pursuant to RCW 10.05.020. A person may not participate in a deferred prosecution program for ((a traffic infraction, misdemeanor, or gross misdemeanor under Title 46 RCW if he or she has participated in a deferred prosecution program for a prior traffic infraction, misdemeanor, or gross misdemeanor under Title 46 RCW, and a person may not participate in a deferred prosecution program for)) a misdemeanor or gross misdemeanor domestic violence offense if he or she has participated in a deferred prosecution program for a prior domestic violence offense. A person charged with a gross misdemeanor violation of RCW 46.61.502 or 46.61.504 may only participate in a deferred prosecution once in his or her lifetime unless the person meets the requirements in subsection (5) of this section. Separate offenses committed more than

seven days apart may not be consolidated in a single program.

(3) A person charged with a misdemeanor or a gross misdemeanor under chapter 9A.42 RCW shall not be eligible for a deferred prosecution program unless the court makes specific findings pursuant to RCW 10.05.020. Such person shall not be eligible for a deferred prosecution program more than once.

(4) A person is not eligible for a deferred prosecution program if the misdemeanor or gross misdemeanor domestic violence offense was originally charged as a felony offense in superior court.

(5)(a) A person who has previously participated in a deferred prosecution under this chapter for the person's first gross misdemeanor violation of RCW 46.61.502 or 46.61.504 is eligible to petition the court for a second deferred prosecution for the person's second gross misdemeanor violation of RCW 46.61.502 or 46.61.504 if the court finds that:

(i) The person participated in a previous deferred prosecution for his or her first charged offense of RCW 46.61.502 or 46.61.504;

(ii) The person is eligible to petition the court for a second deferred prosecution for his or her second charged gross misdemeanor offense of RCW 46.61.502 or 46.61.504 pursuant to RCW 10.05.020; and

(iii) The person has no prior out-of-state convictions that qualify as a "prior offense" as defined under RCW 46.61.5055.

(b) If a person petitions the court for a second deferred prosecution while still under the jurisdiction of a court on a first deferred prosecution, the first deferred prosecution shall be revoked before the court considers the person's petition for a second deferred prosecution.

Sec. 12. RCW 10.05.020 and 2021 c 215 s 115 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the petitioner shall allege under oath in the petition that the wrongful conduct charged is the result of or caused by substance use disorders or mental problems or domestic violence behavior problems for which the person is in need of treatment and unless

treated the probability of future recurrence is great, along with a statement that the person agrees to pay the cost of a diagnosis and treatment of the alleged problem or problems if financially able to do so. The petition shall also contain a case history and written assessment prepared by an approved substance use disorder treatment program as designated in chapter 71.24 RCW if the petition alleges a substance use disorder, by an approved mental health center if the petition alleges a mental problem, or by a state-certified domestic violence treatment provider pursuant to RCW 43.20A.735 if the petition alleges a domestic violence behavior problem.

(2) In the case of a petitioner charged with a misdemeanor or gross misdemeanor under chapter 9A.42 RCW, the petitioner shall allege under oath in the petition that the petitioner is the natural or adoptive parent of the alleged victim; that the wrongful conduct charged is the result of parenting problems for which the petitioner is in need of services; that the petitioner is in need of child welfare services under chapter 74.13 RCW to improve his or her parenting skills in order to better provide his or her child or children with the basic necessities of life; that the petitioner wants to correct his or her conduct to reduce the likelihood of harm to his or her minor children; that in the absence of child welfare services the petitioner may be unable to reduce the likelihood of harm to his or her minor children; and that the petitioner has cooperated with the department of social and health services to develop a plan to receive appropriate child welfare services; along with a statement that the person agrees to pay the cost of the services if he or she is financially able to do so. The petition shall also contain a case history and a written service plan from the department of social and health services.

(3) Before entry of an order deferring prosecution, a petitioner shall be advised of his or her rights as an accused and execute, as a condition of receiving treatment, a statement that contains: (a) An acknowledgment of his or her rights; (b) an acknowledgment and waiver of the right to testify, the right to a speedy trial, the right to call witnesses to testify, the right to present evidence in his or her defense, and the right to a jury trial; (c) a stipulation to the admissibility and

sufficiency of the facts contained in the written police report; and (d) an acknowledgment that the statement will be entered and used to support a finding of guilty if the court finds cause to revoke the order granting deferred prosecution. The petitioner shall also be advised that he or she may, if he or she proceeds to trial and is found guilty, be allowed to seek suspension of some or all of the fines and incarceration that may be ordered upon the condition that he or she seek treatment and, further, that he or she may seek treatment from public and private agencies at any time without regard to whether or not he or she is found guilty of the offense charged. He or she shall also be advised that the court will not accept a petition for deferred prosecution from a person who: (i) Sincerely believes that he or she is innocent of the charges; (ii) sincerely believes that he or she does not, in fact, suffer from ~~((alcoholism, drug addiction))~~ a substance use disorder, mental problems, or domestic violence behavior problems; or (iii) in the case of a petitioner charged under chapter 9A.42 RCW, sincerely believes that he or she does not need child welfare services.

(4) Before entering an order deferring prosecution, the court shall make specific findings that: (a) The petitioner has stipulated to the admissibility and sufficiency of the facts as contained in the written police report; (b) the petitioner has acknowledged the admissibility of the stipulated facts in any criminal hearing on the underlying offense or offenses held subsequent to revocation of the order granting deferred prosecution; (c) the petitioner has acknowledged and waived the right to testify, the right to a speedy trial, the right to call witnesses to testify, the right to present evidence in his or her defense, and the right to a jury trial; and (d) the petitioner's statements were made knowingly and voluntarily. Such findings shall be included in the order granting deferred prosecution.

Sec. 13. RCW 10.05.040 and 2018 c 201 s 9005 are each amended to read as follows:

The program to which such person is referred, or the department of social and health services if the petition is brought under RCW 10.05.020(2), shall conduct an investigation and examination to determine:

(1) Whether the person suffers from the problem described;

(2) Whether the problem is such that if not treated, or if no child welfare services are provided, there is a probability that similar misconduct will occur in the future;

(3) Whether extensive and long term treatment is required;

(4) Whether effective treatment or child welfare services for the person's problem are available; ~~((and))~~

(5) Whether the person is amenable to treatment or willing to cooperate with child welfare services; and

(6) With respect to petitions brought for a deferred prosecution of a charge under RCW 46.61.502 or 46.61.504, whether the petitioner is amenable to treatment as demonstrated by completion of residential treatment or completion of a minimum of 18 hours of intensive outpatient treatment. The minimum treatment requirement under this section may be waived if the court finds good cause.

Sec. 14. RCW 10.05.060 and 2009 c 135 s 1 are each amended to read as follows:

If the report recommends treatment, the court shall examine the treatment plan. If it approves the plan and the petitioner agrees to comply with its terms and conditions and agrees to pay the cost thereof, if able to do so, or arrange for the treatment, an entry shall be made upon the person's court docket showing that the person has been accepted for deferred prosecution. A copy of the treatment plan shall be filed with the court. If the charge be one that an abstract of the docket showing the charge, the date of the violation for which the charge was made, and the date of petitioner's acceptance is required to be sent to the department of licensing, an abstract shall be sent, and the department of licensing shall make an entry of the charge and of the petitioner's acceptance for deferred prosecution on the department's driving record of the petitioner. The entry is not a conviction for purposes of Title 46 RCW. Upon receipt of the abstract of the docket, the department shall issue the petitioner a probationary license in accordance with RCW 46.20.355, and the petitioner's driver's license shall be on probationary status for five years from the date of the violation that gave rise

to the charge. The department shall maintain the record ~~((for ten years from date of entry of the order granting deferred prosecution))~~ consistent with the requirements of RCW 46.01.260(2).

Sec. 15. RCW 10.05.140 and 2019 c 263 s 706 are each amended to read as follows:

(1) As a condition of granting a deferred prosecution petition for a violation of RCW 46.61.502 or 46.61.504, the court shall order that the petitioner shall not operate a motor vehicle upon the public highways without a valid operator's license and proof of liability insurance. The amount of liability insurance shall be established by the court at not less than that established by RCW 46.29.490. As a condition of granting a deferred prosecution petition on any ~~((alcohol dependency))~~ substance use disorder-based case, the court shall also order the installation of an ignition interlock under RCW 46.20.720. The required periods of use of the interlock shall be not less than the periods provided for in RCW 46.20.720. As a condition of granting a deferred prosecution petition, the court may order the petitioner to make restitution and to pay costs as defined in RCW 10.01.160. To help ensure continued sobriety and reduce the likelihood of reoffense, the court may order reasonable conditions during the period of the deferred prosecution including, but not limited to, attendance at self-help recovery support groups for ~~((alcoholism or drugs))~~ substance use disorder, complete abstinence from alcohol and all nonprescribed mind-altering drugs, periodic urinalysis or breath analysis, and maintaining law-abiding behavior. The court may terminate the deferred prosecution program upon violation of the deferred prosecution order.

(2) As a condition of granting a deferred prosecution petition for a case involving a domestic violence behavior problem:

(a) The court shall order the petitioner not to possess firearms and order the petitioner to surrender firearms under RCW 9.41.800; and

(b) The court may order the petitioner to make restitution and to pay costs as defined in RCW 10.01.160. In addition, to help ensure continued sobriety and reduce the likelihood of reoffense in co-occurring domestic violence and

substance abuse or mental health cases, the court may order reasonable conditions during the period of the deferred prosecution including, but not limited to, attendance at self-help recovery support groups for ~~((alcoholism or drugs))~~ substance use disorder, complete abstinence from alcohol and all nonprescribed mind-altering drugs, periodic urinalysis or breath analysis, and maintaining law-abiding behavior. The court may terminate the deferred prosecution program upon violation of the deferred prosecution order.

Sec. 16. RCW 10.05.150 and 2016 sp.s. c 29 s 527 are each amended to read as follows:

A deferred prosecution program for ~~((alcoholism))~~ substance use disorder shall be for a two-year period and shall include, but not be limited to, the following requirements:

(1) Total abstinence from alcohol and all other nonprescribed mind-altering drugs;

(2) Participation in an intensive inpatient or intensive outpatient program in a state-approved substance use disorder treatment program;

(3) Participation in a minimum of two meetings per week of ~~((an alcoholism))~~ a substance use disorder self-help recovery support group, as determined by the assessing agency, for the duration of the treatment program;

(4) Participation in ~~((an alcoholism))~~ a substance use disorder self-help recovery support group, as determined by the assessing agency, from the date of court approval of the plan to entry into intensive treatment;

(5) Not less than weekly approved outpatient counseling, group or individual, for a minimum of six months following the intensive phase of treatment;

(6) Not less than monthly outpatient contact, group or individual, for the remainder of the two-year deferred prosecution period;

(7) The decision to include the use of prescribed drugs, including disulfiram, as a condition of treatment shall be reserved to the treating facility and the petitioner's physician;

(8) All treatment within the purview of this section shall occur within or be

approved by a state-approved substance use disorder treatment program as described in chapter ~~((70.96A))~~ 71.24 RCW;

(9) Signature of the petitioner agreeing to the terms and conditions of the treatment program.

Sec. 17. RCW 10.05.170 and 1991 c 247 s 2 are each amended to read as follows:

As a condition of granting deferred prosecution, the court may order supervision of the petitioner during the period of deferral and may levy a monthly assessment upon the petitioner as provided in RCW 10.64.120. In a jurisdiction with a probation department, the court may appoint the probation department to supervise the petitioner. In a jurisdiction without a probation department, the court may appoint an appropriate person or agency to supervise the petitioner. A supervisor appointed under this section shall be required to do at least the following:

~~(1) ((If the charge for which deferral is granted relates to operation of a motor vehicle, at least once every six months request from the department of licensing an abstract of the petitioner's driving record; and~~

~~(2))~~ At least once every month make contact with the petitioner or with any agency to which the petitioner has been directed for treatment as a part of the deferral; and

(2) If the charge for which deferred prosecution is granted is a charge of RCW 46.61.502 or 46.61.504:

(a) At least once every three months, request an abstract of the petitioner's driving record;

(b) At least once every month, make contact with the petitioner until treatment is completed;

(c) Review the petitioner's criminal history at a minimum of every 90 days until the end of the deferral period; and

(d) Report known violations of supervision or law and noncompliance with conditions of the deferred prosecution to the court within five business days or as soon as practicable.

Sec. 18. RCW 46.61.502 and 2017 c 335 s 1 are each amended to read as follows:

(1) A person is guilty of driving while under the influence of intoxicating

liquor, marijuana, or any drug if the person drives a vehicle within this state:

(a) And the person has, within two hours after driving, an alcohol concentration of 0.08 or higher as shown by analysis of the person's breath or blood made under RCW 46.61.506; or

(b) The person has, within two hours after driving, a THC concentration of 5.00 or higher as shown by analysis of the person's blood made under RCW 46.61.506; or

(c) While the person is under the influence of or affected by intoxicating liquor, marijuana, or any drug; or

(d) While the person is under the combined influence of or affected by intoxicating liquor, marijuana, and any drug.

(2) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this state shall not constitute a defense against a charge of violating this section.

(3) (a) It is an affirmative defense to a violation of subsection (1)(a) of this section, which the defendant must prove by a preponderance of the evidence, that the defendant consumed a sufficient quantity of alcohol after the time of driving and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.08 or more within two hours after driving. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(b) It is an affirmative defense to a violation of subsection (1)(b) of this section, which the defendant must prove by a preponderance of the evidence, that the defendant consumed a sufficient quantity of marijuana after the time of driving and before the administration of an analysis of the person's blood to cause the defendant's THC concentration to be 5.00 or more within two hours after driving. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(4) (a) Analyses of blood or breath samples obtained more than two hours after the alleged driving may be used as evidence that within two hours of the alleged driving, a person had an alcohol concentration of 0.08 or more in violation of subsection (1) (a) of this section, and in any case in which the analysis shows an alcohol concentration above 0.00 may be used as evidence that a person was under the influence of or affected by intoxicating liquor or any drug in violation of subsection (1) (c) or (d) of this section.

(b) Analyses of blood samples obtained more than two hours after the alleged driving may be used as evidence that within two hours of the alleged driving, a person had a THC concentration of 5.00 or more in violation of subsection (1) (b) of this section, and in any case in which the analysis shows a THC concentration above 0.00 may be used as evidence that a person was under the influence of or affected by marijuana in violation of subsection (1) (c) or (d) of this section.

(5) Except as provided in subsection (6) of this section, a violation of this section is a gross misdemeanor.

(6) It is a class B felony punishable under chapter 9.94A RCW, or chapter 13.40 RCW if the person is a juvenile, if:

(a) The person has three or more prior offenses within ~~((ten))~~ 15 years as defined in RCW 46.61.5055; or

(b) The person has ever previously been convicted of:

(i) Vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1) (a);

(ii) Vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1) (b);

(iii) An out-of-state offense comparable to the offense specified in (b) (i) or (ii) of this subsection; or

(iv) A violation of this subsection (6) or RCW 46.61.504(6).

Sec. 19. RCW 46.61.5055 and 2020 c 330 s 15 are each amended to read as follows:

(1) **No prior offenses in seven years.** Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has no prior offense

within seven years shall be punished as follows:

(a) **Penalty for alcohol concentration less than 0.15.** In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than twenty-four consecutive hours nor more than three hundred sixty-four days. In lieu of the mandatory minimum term of imprisonment required under this subsection (1) (a) (i), the court, in its discretion, may order not less than fifteen days of electronic home monitoring or a ninety-day period of 24/7 sobriety program monitoring. The court may consider the offender's pretrial 24/7 sobriety program monitoring as fulfilling a portion of posttrial sentencing. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device or other separate alcohol monitoring device to include an alcohol detection breathalyzer, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than three hundred fifty dollars nor more than five thousand dollars. Three hundred fifty dollars of the fine may not be suspended unless the court finds the offender to be indigent; or

(b) **Penalty for alcohol concentration at least 0.15.** In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than forty-eight consecutive hours nor more than three hundred sixty-four days. In lieu of the mandatory minimum term of imprisonment required under this subsection (1) (b) (i), the court, in its discretion, may order not less than thirty days of electronic home monitoring or a one hundred twenty day period of 24/7 sobriety program monitoring. The

court may consider the offender's pretrial 24/7 sobriety program testing as fulfilling a portion of posttrial sentencing. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device to include an alcohol detection breathalyzer or other separate alcohol monitoring device, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended unless the court finds the offender to be indigent.

(2) **One prior offense in seven years.** Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has one prior offense within seven years shall be punished as follows:

(a) **Penalty for alcohol concentration less than 0.15.** In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than thirty days nor more than three hundred sixty-four days and sixty days of electronic home monitoring. Thirty days of imprisonment and sixty days of electronic home monitoring may not be suspended or converted unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. If the offender shows that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being, in lieu of the mandatory term of imprisonment and electronic home monitoring under this subsection (2)(a)(i), the court may order a minimum of either one hundred eighty days of electronic home monitoring or a one hundred twenty-day period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300 through 36.28A.390. Whenever the mandatory minimum sentence

is suspended or converted, the court shall state in writing the reason for granting the suspension or conversion and the facts upon which the suspension or conversion is based. The court may consider the offender's pretrial 24/7 sobriety program monitoring as fulfilling a portion of posttrial sentencing. The court shall order an expanded substance use disorder assessment and treatment, if deemed appropriate by the assessment. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer or other separate alcohol monitoring device, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended unless the court finds the offender to be indigent; or

(b) **Penalty for alcohol concentration at least 0.15.** In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than forty-five days nor more than three hundred sixty-four days and ninety days of electronic home monitoring. Forty-five days of imprisonment and ninety days of electronic home monitoring may not be suspended or converted unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. If the offender shows that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being, in lieu of the mandatory minimum term of imprisonment and electronic home monitoring under this subsection (2)(b)(i), the court may order a minimum of either six months of electronic home monitoring or a one hundred twenty-day period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300

through 36.28A.390. Whenever the mandatory minimum sentence is suspended or converted, the court shall state in writing the reason for granting the suspension or conversion and the facts upon which the suspension or conversion is based. The court may consider the offender's pretrial 24/7 sobriety program monitoring as fulfilling a portion of posttrial sentencing. The court shall order an expanded substance use disorder assessment and treatment, if deemed appropriate by the assessment. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer or other separate alcohol monitoring device, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than seven hundred fifty dollars nor more than five thousand dollars. Seven hundred fifty dollars of the fine may not be suspended unless the court finds the offender to be indigent.

(3) Two prior offenses in seven years. Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has two prior offenses within seven years shall be punished as follows:

(a) Penalty for alcohol concentration less than 0.15. In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than ninety days nor more than three hundred sixty-four days, if available in that county or city, a six-month period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300 through 36.28A.390, and one hundred twenty days of electronic home monitoring. Ninety days of imprisonment and one hundred twenty days of electronic home monitoring may not be suspended or converted unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-

being. If the offender shows that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being, in lieu of the mandatory minimum term of ninety days of imprisonment and one hundred twenty days of electronic home monitoring, the court may order three hundred sixty days of electronic home monitoring or a three hundred sixty-day period of 24/7 sobriety monitoring pursuant to RCW 36.28A.300 through 36.28A.390. Whenever the mandatory minimum sentence is suspended or converted, the court shall state in writing the reason for granting the suspension or conversion and the facts upon which the suspension or conversion is based. The court shall order an expanded substance use disorder assessment and treatment, if deemed appropriate by the assessment. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer or other separate alcohol monitoring device, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than one thousand dollars nor more than five thousand dollars. One thousand dollars of the fine may not be suspended unless the court finds the offender to be indigent; or

(b) Penalty for alcohol concentration at least 0.15. In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one hundred twenty days nor more than three hundred sixty-four days, if available in that county or city, a six-month period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300 through 36.28A.390, and one hundred fifty days of electronic home monitoring. One hundred twenty days of imprisonment and one hundred fifty days of electronic home monitoring may not be suspended or converted unless the court finds that the imposition of this mandatory minimum

sentence would impose a substantial risk to the offender's physical or mental well-being. If the offender shows that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being, in lieu of the mandatory minimum term of one hundred twenty days of imprisonment and one hundred fifty days of electronic home monitoring, the court may order three hundred sixty days of electronic home monitoring or a three hundred sixty-day period of 24/7 sobriety monitoring pursuant to RCW 36.28A.300 through 36.28A.390. Whenever the mandatory minimum sentence is suspended or converted, the court shall state in writing the reason for granting the suspension or conversion and the facts upon which the suspension or conversion is based. The offender shall pay for the cost of the electronic monitoring. The court shall order an expanded substance use disorder assessment and treatment, if deemed appropriate by the assessment. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer or other separate alcohol monitoring device, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than one thousand five hundred dollars nor more than five thousand dollars. One thousand five hundred dollars of the fine may not be suspended unless the court finds the offender to be indigent.

(4) **Three or more prior offenses in** (~~ten~~) **15 years.** A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 shall be punished under chapter 9.94A RCW if:

(a) The person has three or more prior offenses within (~~ten~~) 15 years; or

(b) The person has ever previously been convicted of:

(i) A violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;

(ii) A violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug;

(iii) An out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection; or

(iv) A violation of RCW 46.61.502(6) or 46.61.504(6).

(5) **Monitoring.** (a) **Ignition interlock device.** The court shall require any person convicted of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance to comply with the rules and requirements of the department regarding the installation and use of a functioning ignition interlock device installed on all motor vehicles operated by the person.

(b) **Monitoring devices.** If the court orders that a person refrain from consuming any alcohol, the court may order the person to submit to alcohol monitoring through an alcohol detection breathalyzer device, transdermal sensor device, or other technology designed to detect alcohol in a person's system. The person shall pay for the cost of the monitoring, unless the court specifies that the cost of monitoring will be paid with funds that are available from an alternative source identified by the court. The county or municipality where the penalty is being imposed shall determine the cost.

(c) **24/7 sobriety program monitoring.** In any county or city where a 24/7 sobriety program is available and verified by the Washington association of sheriffs and police chiefs, the court shall:

(i) Order the person to install and use a functioning ignition interlock or other device in lieu of such period of 24/7 sobriety program monitoring;

(ii) Order the person to a period of 24/7 sobriety program monitoring pursuant to subsections (1) through (3) of this section; or

(iii) Order the person to install and use a functioning ignition interlock or other device in addition to a period of 24/7 sobriety program monitoring pursuant to subsections (1) through (3) of this section.

(6) **Penalty for having a minor passenger in vehicle.** If a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 committed the offense while one or more passengers under the age of sixteen were in the vehicle, the court shall:

(a) Order the use of an ignition interlock or other device for an additional twelve months for each

passenger under the age of sixteen when the person is subject to the penalties under subsection (1)(a), (2)(a), or (3)(a) of this section; and order the use of an ignition interlock device for an additional eighteen months for each passenger under the age of sixteen when the person is subject to the penalties under subsection (1)(b), (2)(b), (3)(b), or (4) of this section;

(b) In any case in which the person has no prior offenses within seven years, and except as provided in RCW 46.61.502(6) or 46.61.504(6), order an additional twenty-four hours of imprisonment to be served consecutively for each passenger under the age of sixteen, and a fine of not less than one thousand dollars and not more than five thousand dollars for each passenger under the age of sixteen. One thousand dollars of the fine for each passenger under the age of sixteen may not be suspended unless the court finds the offender to be indigent;

(c) In any case in which the person has one prior offense within seven years, and except as provided in RCW 46.61.502(6) or 46.61.504(6), order an additional five days of imprisonment to be served consecutively for each passenger under the age of sixteen, and a fine of not less than two thousand dollars and not more than five thousand dollars for each passenger under the age of sixteen. One thousand dollars of the fine for each passenger under the age of sixteen may not be suspended unless the court finds the offender to be indigent;

(d) In any case in which the person has two prior offenses within seven years, and except as provided in RCW 46.61.502(6) or 46.61.504(6), order an additional ten days of imprisonment to be served consecutively for each passenger under the age of sixteen, and a fine of not less than three thousand dollars and not more than ten thousand dollars for each passenger under the age of sixteen. One thousand dollars of the fine for each passenger under the age of sixteen may not be suspended unless the court finds the offender to be indigent.

(7) **Other items courts must consider while setting penalties.** In exercising its discretion in setting penalties within the limits allowed by this section, the court shall particularly consider the following:

(a) Whether the person's driving at the time of the offense was responsible for injury or damage to another or another's property;

(b) Whether at the time of the offense the person was driving or in physical control of a vehicle with one or more passengers;

(c) Whether the driver was driving in the opposite direction of the normal flow of traffic on a multiple lane highway, as defined by RCW 46.04.350, with a posted speed limit of forty-five miles per hour or greater; and

(d) Whether a child passenger under the age of sixteen was an occupant in the driver's vehicle.

(8) **Treatment and information school.** An offender punishable under this section is subject to the substance use disorder assessment and treatment provisions of RCW 46.61.5056.

(9) **Driver's license privileges of the defendant.** (a) The license, permit, or nonresident privilege of a person convicted of driving or being in physical control of a motor vehicle while under the influence of intoxicating liquor or drugs must:

(i) **Penalty for alcohol concentration less than 0.15.** If the person's alcohol concentration was less than 0.15, or if for reasons other than the person's refusal to take a test offered under RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(A) Where there has been no prior offense within seven years, be suspended or denied by the department for ninety days or until the person is evaluated by a substance use disorder agency or probation department pursuant to RCW 46.20.311 and the person completes or is enrolled in a ninety-day period of 24/7 sobriety program monitoring. In no circumstances shall the license suspension be for fewer than two days;

(B) Where there has been one prior offense within seven years, be revoked or denied by the department for two years or until the person is evaluated by a substance use disorder agency or probation department pursuant to RCW 46.20.311 and the person completes or is enrolled in a six-month period of 24/7 sobriety program monitoring. In no

circumstances shall the license suspension be for less than one year; or

(C) Where there have been two or more prior offenses within seven years, be revoked or denied by the department for three years;

(ii) **Penalty for alcohol concentration at least 0.15.** If the person's alcohol concentration was at least 0.15:

(A) Where there has been no prior offense within seven years, be revoked or denied by the department for one year or until the person is evaluated by a substance use disorder agency or probation department pursuant to RCW 46.20.311 and the person completes or is enrolled in a one hundred twenty day period of 24/7 sobriety program monitoring. In no circumstances shall the license revocation be for fewer than four days;

(B) Where there has been one prior offense within seven years, be revoked or denied by the department for nine hundred days; or

(C) Where there have been two or more prior offenses within seven years, be revoked or denied by the department for four years; or

(iii) **Penalty for refusing to take test.** If by reason of the person's refusal to take a test offered under RCW 46.20.308, there is no test result indicating the person's alcohol concentration:

(A) Where there have been no prior offenses within seven years, be revoked or denied by the department for two years;

(B) Where there has been one prior offense within seven years, be revoked or denied by the department for three years; or

(C) Where there have been two or more previous offenses within seven years, be revoked or denied by the department for four years.

(b)(i) The department shall grant credit on a day-for-day basis for a suspension, revocation, or denial imposed under this subsection (9) for any portion of a suspension, revocation, or denial already served under RCW 46.20.3101 arising out of the same incident.

(ii) If a person has already served a suspension, revocation, or denial under

RCW 46.20.3101 for a period equal to or greater than the period imposed under this subsection (9), the department shall provide notice of full credit, shall provide for no further suspension or revocation under this subsection provided the person has completed the requirements under RCW 46.20.311 and paid the probationary license fee under RCW 46.20.355 by the date specified in the notice under RCW 46.20.245, and shall impose no additional reissue fees for this credit.

(c) Upon receipt of a notice from the court under RCW 36.28A.390 that a participant has been removed from a 24/7 sobriety program, the department must resume any suspension, revocation, or denial that had been terminated early under this subsection due to participation in the program, granting credit on a day-for-day basis for any portion of a suspension, revocation, or denial already served under RCW 46.20.3101 or this section arising out of the same incident.

(d) Upon its own motion or upon motion by a person, a court may find, on the record, that notice to the department under RCW 46.20.270 has been delayed for three years or more as a result of a clerical or court error. If so, the court may order that the person's license, permit, or nonresident privilege shall not be revoked, suspended, or denied for that offense. The court shall send notice of the finding and order to the department and to the person. Upon receipt of the notice from the court, the department shall not revoke, suspend, or deny the license, permit, or nonresident privilege of the person for that offense.

(e) For purposes of this subsection (9), the department shall refer to the driver's record maintained under RCW 46.52.120 when determining the existence of prior offenses.

(10) **Probation of driving privilege.** After expiration of any period of suspension, revocation, or denial of the offender's license, permit, or privilege to drive required by this section, the department shall place the offender's driving privilege in probationary status pursuant to RCW 46.20.355.

(11) **Conditions of probation.** (a) In addition to any nonsuspendable and nondeferrable jail sentence required by this section, whenever the court imposes up to three hundred sixty-four days in

jail, the court shall also suspend but shall not defer a period of confinement for a period not exceeding five years. The court shall impose conditions of probation that include: (i) Not driving a motor vehicle within this state without a valid license to drive; (ii) not driving a motor vehicle within this state without proof of liability insurance or other financial responsibility for the future pursuant to RCW 46.30.020; (iii) not driving or being in physical control of a motor vehicle within this state while having an alcohol concentration of 0.08 or more or a THC concentration of 5.00 nanograms per milliliter of whole blood or higher, within two hours after driving; (iv) not refusing to submit to a test of his or her breath or blood to determine alcohol or drug concentration upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drug; and (v) not driving a motor vehicle in this state without a functioning ignition interlock device as required by the department under RCW 46.20.720. The court may impose conditions of probation that include nonrepetition, installation of an ignition interlock device on the probationer's motor vehicle, substance use disorder treatment, supervised probation, or other conditions that may be appropriate. The sentence may be imposed in whole or in part upon violation of a condition of probation during the suspension period.

(b) For each violation of mandatory conditions of probation under (a)(i), (ii), (iii), (iv), or (v) of this subsection, the court shall order the convicted person to be confined for thirty days, which shall not be suspended or deferred.

(c) For each incident involving a violation of a mandatory condition of probation imposed under this subsection, the license, permit, or privilege to drive of the person shall be suspended by the court for thirty days or, if such license, permit, or privilege to drive already is suspended, revoked, or denied at the time the finding of probation violation is made, the suspension, revocation, or denial then in effect shall be extended by thirty days. The court shall notify the department of any suspension, revocation, or denial or any

extension of a suspension, revocation, or denial imposed under this subsection.

(12) Waiver of electronic home monitoring. A court may waive the electronic home monitoring requirements of this chapter when:

(a) The offender does not have a dwelling, telephone service, or any other necessity to operate an electronic home monitoring system. However, if a court determines that an alcohol monitoring device utilizing wireless reporting technology is reasonably available, the court may require the person to obtain such a device during the period of required electronic home monitoring;

(b) The offender does not reside in the state of Washington; or

(c) The court determines that there is reason to believe that the offender would violate the conditions of the electronic home monitoring penalty.

Whenever the mandatory minimum term of electronic home monitoring is waived, the court shall state in writing the reason for granting the waiver and the facts upon which the waiver is based, and shall impose an alternative sentence with similar punitive consequences. The alternative sentence may include, but is not limited to, use of an ignition interlock device, the 24/7 sobriety program monitoring, additional jail time, work crew, or work camp.

Whenever the combination of jail time and electronic home monitoring or alternative sentence would exceed three hundred sixty-four days, the offender shall serve the jail portion of the sentence first, and the electronic home monitoring or alternative portion of the sentence shall be reduced so that the combination does not exceed three hundred sixty-four days.

(13) Extraordinary medical placement. An offender serving a sentence under this section, whether or not a mandatory minimum term has expired, may be granted an extraordinary medical placement by the jail administrator subject to the standards and limitations set forth in RCW 9.94A.728(1)(c).

(14) Definitions. For purposes of this section and RCW 46.61.502 and 46.61.504:

(a) A "prior offense" means any of the following:

(i) A conviction for a violation of RCW 46.61.502 or an equivalent local ordinance;

(ii) A conviction for a violation of RCW 46.61.504 or an equivalent local ordinance;

(iii) A conviction for a violation of RCW 46.25.110 or an equivalent local ordinance;

(iv) A conviction for a violation of RCW 79A.60.040(2) or an equivalent local ordinance;

(v) A conviction for a violation of RCW 79A.60.040(1) or an equivalent local ordinance committed in a reckless manner if the conviction is the result of a charge that was originally filed as a violation of RCW 79A.60.040(2) or an equivalent local ordinance;

(vi) A conviction for a violation of RCW 47.68.220 or an equivalent local ordinance committed while under the influence of intoxicating liquor or any drug;

(vii) A conviction for a violation of RCW 47.68.220 or an equivalent local ordinance committed in a careless or reckless manner if the conviction is the result of a charge that was originally filed as a violation of RCW 47.68.220 or an equivalent local ordinance while under the influence of intoxicating liquor or any drug;

(viii) A conviction for a violation of RCW 46.09.470(2) or an equivalent local ordinance;

(ix) A conviction for a violation of RCW 46.10.490(2) or an equivalent local ordinance;

(x) A conviction for a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug, or a conviction for a violation of RCW 46.61.520 committed in a reckless manner or with the disregard for the safety of others if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;

(xi) A conviction for a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug, or a conviction for a violation of RCW 46.61.522 committed in a reckless manner or with the disregard for the safety of others if the conviction is the

result of a charge that was originally filed as a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug;

(xii) A conviction for a violation of RCW 46.61.5249, 46.61.500, or 9A.36.050 or an equivalent local ordinance, if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

(xiii) An out-of-state conviction for a violation that would have been a violation of (a)(i), (ii), (x), (xi), or (xii) of this subsection if committed in this state;

(xiv) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.502, 46.61.504, or an equivalent local ordinance;

(xv) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.5249, or an equivalent local ordinance, if the charge under which the deferred prosecution was granted was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

(xvi) A deferred prosecution granted in another state for a violation of driving or having physical control of a vehicle while under the influence of intoxicating liquor or any drug if the out-of-state deferred prosecution is equivalent to the deferred prosecution under chapter 10.05 RCW, including a requirement that the defendant participate in a chemical dependency treatment program; or

(xvii) A deferred sentence imposed in a prosecution for a violation of RCW 46.61.5249, 46.61.500, or 9A.36.050, or an equivalent local ordinance, if the charge under which the deferred sentence was imposed was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or a violation of RCW 46.61.520 or 46.61.522;

If a deferred prosecution is revoked based on a subsequent conviction for an offense listed in this subsection (14)(a), the subsequent conviction shall not be treated as a prior offense of the revoked deferred prosecution for the purposes of sentencing;

(b) "Treatment" means substance use disorder treatment licensed or certified by the department of health;

(c) "Within seven years" means that the arrest for a prior offense occurred within seven years before or after the arrest for the current offense; and

(d) "Within (~~ten~~) 15 years" means that the arrest for a prior offense occurred within (~~ten~~) 15 years before or after the arrest for the current offense.

(15) All fines imposed by this section apply to adult offenders only.

Sec. 20. RCW 46.61.504 and 2017 c 335 s 2 are each amended to read as follows:

(1) A person is guilty of being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug if the person has actual physical control of a vehicle within this state:

(a) And the person has, within two hours after being in actual physical control of the vehicle, an alcohol concentration of 0.08 or higher as shown by analysis of the person's breath or blood made under RCW 46.61.506; or

(b) The person has, within two hours after being in actual physical control of a vehicle, a THC concentration of 5.00 or higher as shown by analysis of the person's blood made under RCW 46.61.506; or

(c) While the person is under the influence of or affected by intoxicating liquor or any drug; or

(d) While the person is under the combined influence of or affected by intoxicating liquor and any drug.

(2) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this state does not constitute a defense against any charge of violating this section. No person may be convicted under this section and it is an affirmative defense to any action pursuant to RCW 46.20.308 to suspend, revoke, or deny the privilege to drive if, prior to being pursued by a law enforcement officer, the person has moved the vehicle safely off the roadway.

(3) (a) It is an affirmative defense to a violation of subsection (1)(a) of this section which the defendant must prove by a preponderance of the evidence that the

defendant consumed a sufficient quantity of alcohol after the time of being in actual physical control of the vehicle and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.08 or more within two hours after being in such control. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(b) It is an affirmative defense to a violation of subsection (1)(b) of this section, which the defendant must prove by a preponderance of the evidence, that the defendant consumed a sufficient quantity of marijuana after the time of being in actual physical control of the vehicle and before the administration of an analysis of the person's blood to cause the defendant's THC concentration to be 5.00 or more within two hours after being in control of the vehicle. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(4) (a) Analyses of blood or breath samples obtained more than two hours after the alleged being in actual physical control of a vehicle may be used as evidence that within two hours of the alleged being in such control, a person had an alcohol concentration of 0.08 or more in violation of subsection (1)(a) of this section, and in any case in which the analysis shows an alcohol concentration above 0.00 may be used as evidence that a person was under the influence of or affected by intoxicating liquor or any drug in violation of subsection (1)(c) or (d) of this section.

(b) Analyses of blood samples obtained more than two hours after the alleged being in actual physical control of a vehicle may be used as evidence that within two hours of the alleged being in control of the vehicle, a person had a THC concentration of 5.00 or more in violation of subsection (1)(b) of this section, and in any case in which the analysis shows a THC concentration above 0.00 may be used as evidence that a person was under the influence of or affected by marijuana in violation of subsection (1)(c) or (d) of this section.

(5) Except as provided in subsection (6) of this section, a violation of this section is a gross misdemeanor.

(6) It is a class C felony punishable under chapter 9.94A RCW, or chapter 13.40 RCW if the person is a juvenile, if:

(a) The person has three or more prior offenses within ~~((ten))~~ 15 years as defined in RCW 46.61.5055; or

(b) The person has ever previously been convicted of:

(i) Vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a);

(ii) Vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b);

(iii) An out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection; or

(iv) A violation of this subsection (6) or RCW 46.61.502(6).

NEW SECTION. **Sec. 21.** Sections 1 through 5, 7 through 10, and 18 through 20 of this act take effect July 1, 2022.

NEW SECTION. **Sec. 22.** Sections 6 and 11 through 17 of this act take effect January 1, 2023."

Correct the title.

Signed by Representatives Goodman, Chair; Johnson, J., Vice Chair; Klippert, Assistant Ranking Minority Member; Davis; Hackney; Orwall; Ramos; Simmons and Thai.

MINORITY recommendation: Without recommendation. Signed by Representatives Mosbrucker, Ranking Minority Member; Graham and Griffey.

Referred to Committee on Appropriations.

February 24, 2022

ESB 5202 Prime Sponsor, Senator Schoesler: Establishing school district depreciation subfunds for the purposes of preventative maintenance. Reported by Committee on Education

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 28A.320.330 and 2021 c 332 s 7045 are each amended to read as follows:

School districts shall establish the following funds in addition to those provided elsewhere by law:

(1)(a) A general fund for the school district to account for all financial operations of the school district except those required to be accounted for in another fund.

(b) By the 2018-19 school year, a local revenue subfund of its general fund to account for the financial operations of a school district that are paid from local revenues. The local revenues that must be deposited in the local revenue subfund are enrichment levies and transportation vehicle levies collected under RCW 84.52.053, local effort assistance funding received under chapter 28A.500 RCW, and other school district local revenues including, but not limited to, grants, donations, and state and federal payments in lieu of taxes, but do not include other federal revenues, or local revenues that operate as an offset to the district's basic education allocation under RCW 28A.150.250. School districts must track expenditures from this subfund separately to account for the expenditure of each of these streams of revenue by source, and must provide the supplemental expenditure schedule under (c) of this subsection, and any other supplemental expenditure schedules required by the superintendent of public instruction or state auditor, for purposes of RCW 43.09.2856.

(c) Beginning in the 2019-20 school year, the superintendent of public instruction must require school districts to provide a supplemental expenditure schedule by revenue source that identifies the amount expended by object for each of the following supplementary enrichment activities beyond the state funded amount:

(i) Minimum instructional offerings under RCW 28A.150.220 or 28A.150.260 not otherwise included on other lines;

(ii) Staffing ratios or program components under RCW 28A.150.260, including providing additional staff for class size reduction beyond class sizes allocated in the prototypical school model and additional staff beyond the staffing ratios allocated in the prototypical school formula;

(iii) Program components under RCW 28A.150.200, 28A.150.220, or 28A.150.260, not otherwise included on other lines;

(iv) Program components to support students in the program of special education;

(v) Program components of professional learning, as defined by RCW 28A.415.430, beyond that allocated under RCW 28A.150.415;

(vi) Extracurricular activities;

(vii) Extended school days or an extended school year;

(viii) Additional course offerings beyond the minimum instructional program established in the state's statutory program of basic education;

(ix) Activities associated with early learning programs;

(x) Activities associated with providing the student transportation program;

(xi) Any additional salary costs attributable to the provision or administration of the enrichment activities allowed under RCW 28A.150.276;

(xii) Additional activities or enhancements that the office of the superintendent of public instruction determines to be a documented and demonstrated enrichment of the state's statutory program of basic education under RCW 28A.150.276; and

(xiii) All other costs not otherwise identified in other line items.

(d) For any salary and related benefit costs identified in (c)(xi), (xii), and (xiii) of this subsection, the school district shall maintain a record describing how these expenditures are documented and demonstrated enrichment of the state's statutory program of basic education. School districts shall maintain these records until the state auditor has completed the audit under RCW 43.09.2856.

(e) A depreciation subfund of its general fund for the school district to reserve moneys for future facility and equipment needs, including preventative maintenance and emergency facility needs. Up to two percent of a school district's general fund may be deposited each fiscal year into the depreciation

subfund. The preventative maintenance must be necessary to realize the originally anticipated useful life of a building or facility and includes: Exterior painting of facilities; replacement or renovation of roofing, exterior walls, windows, heating, air conditioning and ventilation systems, floor coverings in classrooms and common areas, and electrical and plumbing systems; and renovation of playfields, athletic facilities, and other school district real property. School districts, subject to applicable public works bid limits, may use school district employees to perform preventative maintenance with moneys from the depreciation subfund, but moneys from the depreciation subfund may not be used for employee compensation that is unrelated to this subsection (1)(e).

(2) A capital projects fund shall be established for major capital purposes. All statutory references to a "building fund" shall mean the capital projects fund so established. Money to be deposited into the capital projects fund shall include, but not be limited to, bond proceeds, proceeds from excess levies authorized by RCW 84.52.053, state apportionment proceeds as authorized by RCW 28A.150.270, earnings from capital projects fund investments as authorized by RCW 28A.320.310 and 28A.320.320, and state forest revenues transferred pursuant to subsection (3) of this section.

Money derived from the sale of bonds, including interest earnings thereof, may only be used for those purposes described in RCW 28A.530.010, except that accrued interest paid for bonds shall be deposited in the debt service fund.

Money to be deposited into the capital projects fund shall include but not be limited to rental and lease proceeds as authorized by RCW 28A.335.060, and proceeds from the sale of real property as authorized by RCW 28A.335.130.

Money legally deposited into the capital projects fund from other sources may be used for the purposes described in RCW 28A.530.010, and for the purposes of:

(a) Major renovation and replacement of facilities and systems where periodical repairs are no longer economical or extend the useful life of the facility or system beyond its original planned useful life. Such renovation and replacement shall

include, but shall not be limited to, major repairs, exterior painting of facilities, replacement and refurbishment of roofing, exterior walls, windows, heating and ventilating systems, floor covering in classrooms and public or common areas, and electrical and plumbing systems.

(b) Renovation and rehabilitation of playfields, athletic fields, and other district real property.

(c) The conduct of preliminary energy audits and energy audits of school district buildings. For the purpose of this section:

(i) "Preliminary energy audits" means a determination of the energy consumption characteristics of a building, including the size, type, rate of energy consumption, and major energy using systems of the building.

(ii) "Energy audit" means a survey of a building or complex which identifies the type, size, energy use level, and major energy using systems; which determines appropriate energy conservation maintenance or operating procedures and assesses any need for the acquisition and installation of energy conservation measures, including solar energy and renewable resource measures.

(iii) "Energy capital improvement" means the installation, or modification of the installation, of energy conservation measures in a building which measures are primarily intended to reduce energy consumption or allow the use of an alternative energy source.

(d) Those energy capital improvements which are identified as being cost-effective in the audits authorized by this section.

(e) Purchase or installation of additional major items of equipment and furniture: PROVIDED, That vehicles shall not be purchased with capital projects fund money.

(f) (i) Costs associated with implementing technology systems, facilities, and projects, including acquiring hardware, licensing software, and online applications and training related to the installation of the foregoing. However, the software or applications must be an integral part of the district's technology systems, facilities, or projects.

(ii) Costs associated with the application and modernization of technology systems for operations and instruction including, but not limited to, the ongoing fees for online applications, subscriptions, or software licenses, including upgrades and incidental services, and ongoing training related to the installation and integration of these products and services. However, to the extent the funds are used for the purpose under this subsection (2)(f)(ii), the school district shall transfer to the district's general fund the portion of the capital projects fund used for this purpose. The office of the superintendent of public instruction shall develop accounting guidelines for these transfers in accordance with internal revenue service regulations.

(g) Major equipment repair, painting of facilities, and other major preventative maintenance purposes. However, to the extent the funds are used for the purpose under this subsection (2)(g), the school district shall transfer to the district's general fund the portion of the capital projects fund used for this purpose. The office of the superintendent of public instruction shall develop accounting guidelines for these transfers in accordance with internal revenue service regulations. Based on the district's most recent two-year history of general fund maintenance expenditures, funds used for this purpose may not replace routine annual preventive maintenance expenditures made from the district's general fund.

(h) During the 2021-2023 fiscal biennium, renovation and replacement of facilities and systems, purchase or installation of items of equipment and furniture, including maintenance vehicles and machinery, and other preventative maintenance or infrastructure improvement purposes.

(3) A debt service fund to provide for tax proceeds, other revenues, and disbursements as authorized in chapter 39.44 RCW. State forestland revenues that are deposited in a school district's debt service fund pursuant to RCW 79.64.110 and to the extent not necessary for payment of debt service on school district bonds may be transferred by the school district into the district's capital projects fund.

(4) An associated student body fund as authorized by RCW 28A.325.030.

(5) Advance refunding bond funds and refunded bond funds to provide for the proceeds and disbursements as authorized in chapter 39.53 RCW."

Correct the title.

Signed by Representatives Santos, Chair; Dolan, Vice Chair; Ybarra, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Bergquist; McCaslin; McEntire; Ortiz-Self; Rude; Steele and Stonier.

MINORITY recommendation: Without recommendation. Signed by Representatives Berg and Callan.

Referred to Committee on Rules for second reading.

February 24, 2022

SSB 5252 Prime Sponsor, Committee on Early Learning & K-12 Education: Concerning school district consultation with local tribes. Reported by Committee on Education

MAJORITY recommendation: Do pass. Signed by Representatives Santos, Chair; Dolan, Vice Chair; Ybarra, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Berg; Bergquist; Callan; McCaslin; McEntire; Ortiz-Self; Rude; Steele and Stonier.

Referred to Committee on Appropriations.

February 24, 2022

ESSB 5268 Prime Sponsor, Committee on Health & Long Term Care: Transforming services for individuals with intellectual and developmental disabilities by increasing the capabilities of community residential settings and redesigning the long-term nature of intermediate care facilities. Reported by Committee on Housing, Human Services & Veterans

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Part 1: Increase the Capabilities of Community Residential Settings and Services

NEW SECTION. **Sec. 1.** (1) The legislature finds that the recommendations in the December 2019 report, "Rethinking Intellectual and Developmental Disability Policy to Empower Clients, Develop Providers, and

Improve Services" and recommendations in the 2021 preliminary report of the joint executive and legislative task force established in chapter 317, Laws of 2020 are the product of deliberations among a diverse and dedicated group of stakeholders and are critical to advancing the continuum of care for individuals with developmental disabilities.

(2) The legislature intends to continue efforts to expand community residential settings and supports with the goals of reducing the risk of federal divestment from Washington's intermediate care facilities and delivering appropriate care to clients of the developmental disabilities administration. To that end, the legislature finds that a reliable network of community providers is critical to meeting these goals and that community residential rates must be established at appropriate levels to ensure that individuals with intellectual and developmental disabilities have community residential options that appropriately address their needs and ensure stable, permanent outcomes.

(3) The legislature also finds that it is imperative that internal processes within the department of social and health services, including those that guide eligibility determinations, assess hours of service delivery, and measure quality of providers, be examined to ensure that these systems function in the most streamlined and efficient manner with the goal of achieving a system that has greater consistency with regard to expectations and requirements of providers and that is structured to be more person-centered and user-friendly at interface.

Sec. 2. RCW 43.88C.010 and 2021 c 334 s 975 are each amended to read as follows:

(1) The caseload forecast council is hereby created. The council shall consist of two individuals appointed by the governor and four individuals, one of whom is appointed by the chairperson of each of the two largest political caucuses in the senate and house of representatives. The chair of the council shall be selected from among the four caucus appointees. The council may select such other officers as the members deem necessary.

(2) The council shall employ a caseload forecast supervisor to supervise the preparation of all caseload forecasts. As used in this chapter, "supervisor" means the caseload forecast supervisor.

(3) Approval by an affirmative vote of at least five members of the council is required for any decisions regarding employment of the supervisor. Employment of the supervisor shall terminate after each term of three years. At the end of the first year of each three-year term the council shall consider extension of the supervisor's term by one year. The council may fix the compensation of the supervisor. The supervisor shall employ staff sufficient to accomplish the purposes of this section.

(4) The caseload forecast council shall oversee the preparation of and approve, by an affirmative vote of at least four members, the official state caseload forecasts prepared under RCW 43.88C.020. If the council is unable to approve a forecast before a date required in RCW 43.88C.020, the supervisor shall submit the forecast without approval and the forecast shall have the same effect as if approved by the council.

(5) A councilmember who does not cast an affirmative vote for approval of the official caseload forecast may request, and the supervisor shall provide, an alternative forecast based on assumptions specified by the member.

(6) Members of the caseload forecast council shall serve without additional compensation but shall be reimbursed for travel expenses in accordance with RCW 44.04.120 while attending sessions of the council or on official business authorized by the council. Nonlegislative members of the council shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(7) "Caseload," as used in this chapter, means:

(a) The number of persons expected to meet entitlement requirements and require the services of public assistance programs, state correctional institutions, state correctional noninstitutional supervision, state institutions for juvenile offenders, the common school system, long-term care, medical assistance, foster care, and adoption support;

(b) The number of students who are eligible for the Washington college bound scholarship program and are expected to attend an institution of higher education as defined in RCW 28B.92.030;

(c) The number of students who are eligible for the Washington college grant program under RCW 28B.92.200 and 28B.92.205 and are expected to attend an institution of higher education as defined in RCW 28B.92.030; and

(d) The number of children who are eligible, as defined in RCW 43.216.505, to participate in, and the number of children actually served by, the early childhood education and assistance program.

(8) The caseload forecast council shall forecast the temporary assistance for needy families and the working connections child care programs as a courtesy.

(9) ~~(The)~~ By January 1, 2023, the caseload forecast council shall present the number of individuals who are assessed as eligible for and have requested a service through the individual and family services waiver and the basic plus waiver administered by the developmental disabilities administration as a courtesy. The caseload forecast council shall be presented with the service request list as defined in RCW 71A.10.020 to aid in development of this information.

(10) Beginning with the official forecast submitted in November 2022 and subject to the availability of amounts appropriated for this specific purpose, the caseload forecast council shall forecast the number of individuals who are assessed as eligible for and have requested supported living services, a service through the core waiver, an individual and family services waiver, and the basic plus waiver administered by the developmental disabilities administration. The caseload forecast council shall be presented with the service request list as defined in RCW 71A.10.020 to aid in development of this information.

(11) Beginning with the official forecast submitted in November 2022, the caseload forecast council shall forecast the number of individuals who are expected to reside in state-operated living alternatives administered by the developmental disabilities administration.

(12) The caseload forecast council shall forecast youth participating in the extended foster care program pursuant to RCW 74.13.031 separately from other children who are residing in foster care and who are under eighteen years of age.

~~((411))~~ (13) The caseload forecast council shall forecast the number of youth expected to receive behavioral rehabilitation services while involved in the foster care system and the number of screened in reports of child abuse or neglect.

~~((412))~~ (14) Unless the context clearly requires otherwise, the definitions provided in RCW 43.88.020 apply to this chapter.

~~((413))~~ (15) During the 2021-2023 fiscal biennium, and beginning with the November 2021 forecast, the caseload forecast council shall produce an unofficial forecast of the long-term caseload for juvenile rehabilitation as a courtesy.

NEW SECTION. Sec. 3. A new section is added to chapter 71A.18 RCW to read as follows:

(1) Expenditures for the individual and family services waiver and the basic plus waiver as referenced in RCW 43.88C.010 must be considered by the governor and the legislature for inclusion in maintenance level budgets beginning with the governor's budget proposal submitted in December 2022 and funding for these expenditures are subject to amounts appropriated for this specific purpose. The department of social and health services must annually submit a budget request for these expenditures.

(2) Beginning with the governor's budget proposal submitted in December 2022 and within the department's existing appropriations, the department of social and health services must annually submit a budget request for expenditures for the number of individuals who are expected to reside in state-operated living alternatives administered by the developmental disabilities administration as referenced in RCW 43.88C.010.

NEW SECTION. Sec. 4. (1) With consideration to legislative intent to expand community residential settings, and within the department's existing appropriations, the department of social and health services shall examine the

need for community respite beds to serve eligible individuals and stabilization, assessment, and intervention beds to provide crisis stabilization services for individuals with complex behavioral needs. No later than October 1, 2022, the department of social and health services must submit a preliminary report to the governor and the legislature that estimates the number of beds needed in fiscal years 2023 through 2025, recommends geographic locations of these beds, provides options for contracting with community providers for these beds, provides options for utilizing existing intermediate care facilities to meet these needs, includes the average length of stay for clients residing in state-operated intermediate care facilities, and recommends whether or not an increase to respite hours is needed. A progress report is due on October 1, 2023, and a final report of this information shall be submitted no later than October 1, 2024.

(2) This section expires January 1, 2025.

NEW SECTION. Sec. 5. (1) The department of social and health services must contract with a private vendor for a study of medicaid rates for contracted community residential service providers. The study must be submitted to the governor and the appropriate committees of the legislature no later than December 1, 2023, and must include:

(a) A recommendation of rates needed for facilities to cover their costs and adequately recruit, train, and retain direct care professionals;

(b) Recommendations for an enhanced rate structure, including when and for whom this rate structure would be appropriate; and

(c) An assessment of options for an alternative, opt-in rate structure for contracted supported living providers who voluntarily serve individuals with complex behaviors, complete additional training, and submit to additional monitoring.

(2) This section expires January 31, 2024.

NEW SECTION. Sec. 6. (1) With consideration to legislative intent to expand community residential settings and within the department's existing appropriations, the department of social and health services shall submit by October 1, 2022, a five-year plan to

phase-in the appropriate level of funding and staffing to achieve case management ratios of one case manager to no more than 35 clients. The five-year plan must include:

(a) An analysis of current procedures to hire and train new staff within the developmental disabilities administration of the department of social and health services;

(b) Identification of any necessary changes to these procedures to ensure a more efficient and timely process for hiring and training staff; and

(c) Identification of the number of new hires needed on an annual basis to achieve the phased implementation included in the five-year plan.

(2) This section expires January 31, 2024.

NEW SECTION. Sec. 7. (1) Within the department's existing appropriations, and no later than June 30, 2023, the department of social and health services in collaboration with appropriate stakeholders shall develop uniform quality assurance metrics that are applied across community residential settings, intermediate care facilities, and state-operated nursing facilities. The department of social and health services must submit a report of these activities to the governor and the legislature no later than June 30, 2023.

(2) This section expires July 31, 2023.

NEW SECTION. Sec. 8. (1) The joint legislative audit and review committee shall:

(a) Review the developmental disabilities administration's existing processes and staffing methodology used for determining eligibility, assessing for eligibility, delivering services, and managing individuals who are waiting for services;

(b) Review best practices from other states regarding eligibility determination, eligibility assessment, service delivery, management of individuals who are waiting for services, and staffing models; and

(c) Identify options for streamlining the eligibility, assessment, service delivery, and management of individuals who are waiting for services processes and the potential staffing impacts.

(2) The joint legislative audit and review committee shall report its findings and recommendations to the governor and the appropriate committees of the legislature by December 1, 2024.

(3) This section expires January 31, 2025.

Part 2: Improve Cross-System Coordination

NEW SECTION. Sec. 9. An individual's disability will often overshadow other medical or functional needs which can result in missed connections and poor outcomes. It is the intent of the legislature that cross-system coordination involving individuals with intellectual and developmental disabilities be improved to ensure that these individuals receive the appropriate types of services and supports when they are needed to adequately address mental health conditions, medical conditions, individual preferences, and the natural aging process.

NEW SECTION. Sec. 10. (1) Within the department's existing appropriations, the department of social and health services shall work with the developmental disabilities council to:

(a) Coordinate collaboration efforts among relevant stakeholders to develop and disseminate best practices related to serving individuals with co-occurring intellectual and developmental disabilities and mental health conditions;

(b) Work with Washington state's apprenticeship and training council, colleges, and universities to establish medical, dental, nursing, and direct care apprenticeship programs that would address gaps in provider training and overall competence;

(c) Devise options for consideration by the governor and the legislature to prioritize funding for housing for individuals with intellectual and developmental disabilities when a lack of affordable housing is the barrier preventing an individual from moving to a least restrictive community setting; and

(d) Coordinate collaboration efforts among relevant stakeholders to examine existing law with regard to guardianship and protective proceedings and make any necessary recommendations for changes to

existing law to ensure that guardianship or other protective proceedings are designed to provide individuals with intellectual and developmental disabilities with the decision-making support they require to live as independently as possible in the least restrictive environment, including consideration of mechanisms that enable regular payment for services rendered by these legal representatives when appropriate.

(2) Within the department's existing appropriations, the department of social and health services shall work with the health care authority and Washington state's managed care organizations to establish the necessary agreements for intellectual and developmental disabilities clients who live in the community to access intermediate care facility-based professionals to receive care covered under the state plan. The department of social and health services must consider methods to deliver these services at mobile or brick-and-mortar clinical settings in the community.

(3) No later than December 1, 2022, the department of social and health services shall submit a report describing the efforts outlined in subsections (1) and (2) of this section and any recommendations for policy or fiscal changes to the governor and the legislature for consideration in the 2023 legislative session.

(4) This section expires January 31, 2023.

Part 3: Redesign State-Operated Intermediate Care Facilities to Function as Short-Term Crisis Stabilization and Intervention

NEW SECTION. **Sec. 11.** It is the intent of the legislature that intermediate care facilities be redesigned from long-term care settings to settings that support short-term crisis stabilization and intervention and that, in order to achieve stable, permanent placements in the least restrictive settings possible, an infrastructure of procedures be developed to ensure that individuals placed in intermediate care settings remain in that setting no longer than is absolutely necessary.

NEW SECTION. **Sec. 12.** (1) Within the department of social and health services' existing appropriations, the developmental disabilities

administration must develop procedures that ensure that:

(a) Clear, written, and verbal information is provided to the individual and their family member that explains:

(i) That placement in the intermediate care facility is temporary; and

(ii) What constitutes continuous aggressive active treatment and its eligibility implications;

(b) Discharge planning begins immediately upon placement of an individual within the intermediate care facility and that the individual and their family member is provided clear descriptions of all placement options and their requirements;

(c) When stabilization services are available in the community, the individual is presented with the option to receive those services in the community prior to being offered services in a state-operated intermediate care facility; and

(d) When the individual has not achieved crisis stabilization after 60 consecutive days in the state-operated intermediate care facility, the department of social and health services must convene the individual's team of care providers including, but not limited to, the individual's case manager, the individual's community-based providers, and, if applicable, the individual's managed care organization to review and make any necessary changes to the individual's care plan.

(2) Subject to funding appropriated specifically for this purpose, the department of social and health services must expand the number of family mentors and establish peer mentors to connect each client in an intermediate care facility with a mentor to assist in their transition planning.

(3) Subject to funding appropriated specifically for this purpose, the department of social and health services must make every effort to ensure the individual does not lose their community residential services while the individual is receiving stabilization services in a state-operated intermediate care facility. The department of social and health services must:

(a) Work with community residential service providers to provide a 90-day

vacancy payment for individuals who are transferred from the community residential service provider to a state-operated intermediate care facility for stabilization services; and

(b) Utilize client resources or other resources to pay the rent for individuals who are facing eviction due to failure to pay the rent caused by the transfer to a state-operated intermediate care facility for stabilization services.

(4) No later than November 1, 2022, the department of social and health services must submit a report describing the efforts outlined in subsections (1) through (3) of this section and make any necessary recommendations for policy or fiscal changes to the governor and the legislature for consideration in the 2023 legislative session.

(5) This section expires January 31, 2023."

Correct the title.

Signed by Representatives Peterson, Chair; Taylor, Vice Chair; Gilday, Ranking Minority Member; Barkis, Assistant Ranking Minority Member; Bateman; Chopp; Donaghy; Jacobsen and Leavitt.

Referred to Committee on Appropriations.

February 24, 2022

SSB 5376 Prime Sponsor, Committee on Early Learning & K-12 Education: Promoting awareness of the governor's office of the education ombuds. Reported by Committee on Education

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** (1) The legislature recognizes that the office of the education ombuds within the office of the governor was established by the legislature in 2006 to reduce educational opportunity gaps by supporting families, students, educators, and communities in understanding the K-12 school system and resolving concerns collaboratively. The legislature recognizes that it placed the education ombuds within the office of the governor to ensure independence and impartiality.

(2) The legislature further recognizes that the education ombuds provides services including:

(a) Informing students, parents or guardians, employees, and members of the public about the state's public elementary and secondary education system;

(b) Identifying obstacles and recommending strategies to help students and community members to participate effectively in schools;

(c) Identifying and recommending strategies for improving student success;

(d) Referring individuals and families to appropriate resources, agencies, or departments;

(e) Facilitating the resolution of informal complaints made by parents and students with regard to the state's public elementary and secondary education system; and

(f) Serving as the lead agency to provide resources and tools to parents and families about public school antiharassment policies and strategies.

(3) The legislature intends for public schools to annually notify parents or guardians, students, and school employees about these services.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.600 RCW to read as follows:

(1) Beginning August 1, 2023, public schools must:

(a) Provide students and their parents or guardians with a description of the services available through the office of the education ombuds and the contact information for the office of the education ombuds at the time of initial enrollment or admission; and

(b) Either: (i) Include on their website a description of the services available through the office of the education ombuds and a link to the website of the office of the education ombuds; or (ii) provide a description of the services available through the office of the education ombuds and the contact information for the office of the education ombuds in existing materials that are shared annually with families, students, and school employees, such as welcome packets, orientation guides, and newsletters.

(2) Public schools are encouraged to comply with both subsection (1) (b) (i) and (ii) of this section.

(3) By July 1, 2022, the office of the education ombuds must develop a template of the information described in subsection (1) of this section. The template must be translated into Spanish and into other languages as resources allow. The template must be made available upon request and updated as needed.

(4) For the purposes of this section, "public schools" has the same meaning as in RCW 28A.150.010.

NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.190 RCW to read as follows:

Institutional education providers must comply with the requirements in section 2(1) of this act, related to provision of information about the office of the education ombuds.

NEW SECTION. **Sec. 4.** A new section is added to chapter 28A.710 RCW to read as follows:

Section 2 (1) and (2) of this act, related to provision of information about the office of the education ombuds, governs school operation and management under RCW 28A.710.040 and apply to charter schools established under this chapter.

NEW SECTION. **Sec. 5.** A new section is added to chapter 28A.715 RCW to read as follows:

Section 2 (1) and (2) of this act, related to provision of information about the office of the education ombuds, governs school operation and management under RCW 28A.715.020 and apply to state-tribal education compact schools established under this chapter."

Correct the title.

Signed by Representatives Santos, Chair; Dolan, Vice Chair; Ybarra, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Berg; Bergquist; Callan; McCaslin; McEntire; Ortiz-Self; Rude; Steele and Stonier.

Referred to Committee on Rules for second reading.

February 24, 2022

ESSB 5428 Prime Sponsor, Committee on Housing & Local Government: Concerning the application of the state environmental policy act to temporary shelters and transitional encampments. Reported by Committee on Environment & Energy

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 43.21C RCW to read as follows:

(1) Until August 1, 2032, a lead agency taking a permit action to site a temporary shelter or transitional encampment is exempt from compliance with this chapter if the following conditions are met:

(a) The temporary shelter or transitional encampment is used for people experiencing homelessness;

(b) The temporary shelter or transitional encampment includes no more than 200 beds and the number of occupants is based on one person for each bed;

(c) The permit for the temporary shelter or transitional encampment includes a condition that the shelter or encampment is used on the site for no more than five years. If a temporary shelter or transitional encampment is to remain on the site for more than five years, the permit action to extend or reissue a permit to the temporary shelter or transitional encampment is not exempt from compliance with this chapter;

(d) The temporary shelter or transitional encampment does not involve erecting a new permanent structure;

(e) The jurisdiction acting as lead agency and in which the temporary shelter or transitional encampment will be located has declared a state of emergency on homelessness that is in effect at the time of the permit action;

(f) If the temporary shelter or transitional encampment will receive public services, including but not limited to public safety, public health, or water, sewer, or solid waste services, through an interlocal agreement that are provided by a county or city that is not the lead agency, the lead agency must:

(i) Provide notice to the mayor or executive authority of the county or city that would be required to provide services to the temporary shelter or transitional encampment at least 14 calendar days before any permit application for the shelter or encampment is submitted; and

(ii) Obtain written notification from the mayor or executive authority of the other county or city approving of the siting;

(g) For any temporary shelter or transitional encampment proposed to be located within .25 miles of another town, city, or county, the shelter or encampment operator or permit applicant must provide written notice of the shelter or encampment's size, location, and services via email or first-class mail to that jurisdiction's mayor or executive authority at least 14 calendar days before any permit application for the shelter or encampment is submitted;

(h) The operator of the temporary shelter or transitional encampment must establish a community advisory committee that provides input on shelter or encampment operations. As requested by any town, city, or county within .25 miles of the shelter or encampment, the committee must include one representative as identified by that jurisdiction. A representative of the temporary shelter or transitional encampment operator must attend all advisory committee meetings and provide to the committee quarterly reports that address shelter or encampment operations. The community advisory committee must create a process to accept and address complaints from the community;

(i) The allowance of drugs or alcohol by temporary shelter or transitional encampment occupants must be determined by the jurisdiction based on analysis of the needs and population served by the specific shelter or encampment;

(j) The permit for the temporary shelter or transitional encampment includes a condition that the encampment or shelter complies with any drainage, erosion control, wastewater, stormwater, and other water quality regulations of the jurisdiction and is consistent with any applicable national pollutant discharge elimination system permit or permit issued under chapter 90.48 RCW to the jurisdiction;

(k) The temporary shelter or transitional encampment host or operator has developed a disengagement plan for cleanup for the shelter or encampment;

(l) The temporary shelter or transitional encampment host or operator has developed a medical waste disposal plan for the shelter or encampment;

(m) The temporary shelter or transitional encampment host or operator has developed a solid waste management program for the shelter or encampment;

(n) The local jurisdiction must make available employment, mental health, and drug counseling services to persons residing at the temporary shelter or transitional encampment; and

(o) If the jurisdiction is a county planning under chapter 36.70A RCW, the temporary shelter or transitional encampment is to be located within an urban growth area designated under RCW 36.70A.110.

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

(a) "Temporary shelter" means a use sited in a new or existing structure or modular structure that provides temporary quarters for sleeping and shelter. The use may have common food preparation, shower, or other commonly used facilities that support temporary shelters.

(b) "Transitional encampment" means a use having tents, modular structures, or a similar shelter, including vehicles used for shelter, that provides temporary quarters for sleeping and shelter. The use may have common food preparation, shower, or other commonly used facilities that are separate from the sleeping shelters and that support transitional encampments.

(3) The exemption established in this section is in addition to the exemption established by rule pursuant to RCW 43.21C.110(1)(k), and does not in any way limit or change that exemption.

(4) This section expires January 1, 2033.

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."

Correct the title.

Signed by Representatives Fitzgibbon, Chair; Duerr, Vice Chair; Berry; Harris-Talley; Ramel; Shewmake and Slatter.

MINORITY recommendation: Without recommendation. Signed by Representatives Dye,

Ranking Minority Member; Klicker, Assistant Ranking Minority Member; Abbarno; Boehnke; Fey and Goehner.

Referred to Committee on Rules for second reading.

February 24, 2022

SB 5498 Prime Sponsor, Senator Wilson, C.:
Awarding diplomas posthumously.
Reported by Committee on Education

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature affirms its statutory assertion that the purpose of a high school diploma 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.

(2) The legislature finds that, on rare occasions and due to unforeseen circumstances, school districts may wish to provide recognition of a student's status of being on-track to graduate, which is interrupted by an untimely passing that prevents the completion of the secondary education program. In these limited instances, school districts should have discretion to issue a posthumous high school diploma with an "honoris causa" inscription.

(3) The legislature recognizes that the authority to issue a high school diploma properly rests with the local school district and its determination of whether a student has met the applicable state and local graduation requirements. The legislature finds, however, that establishing uniform requirements governing the issuance of posthumous diplomas by school districts will promote the proper and effective administration of the public education system.

(4) The legislature, therefore, intends to authorize school districts to issue posthumous high school diplomas for qualifying students and in accordance with delineated requirements that promote local discretion, consistent administration, and the acknowledgement of academic achievements that were prematurely interrupted by the student's untimely passing.

Sec. 2. RCW 28A.230.120 and 2008 c 185 s 1 are each amended to read as follows:

(1) School districts shall issue diplomas to students signifying graduation from high school upon the students' satisfactory completion of all local and state graduation requirements. Districts shall grant students the option of receiving a final transcript in addition to the regular diploma.

(2) School districts or schools of attendance shall establish policies and procedures to notify senior students of the transcript option and shall direct students to indicate their decisions in a timely manner. School districts shall make appropriate provisions to assure that students who choose to receive a copy of their final transcript shall receive such transcript after graduation.

(3)(a) A school district may issue a high school diploma to a person who:

(i) Is an honorably discharged member of the armed forces of the United States; and

(ii) Left high school before graduation to serve in World War II, the Korean conflict, or the Vietnam era as defined in RCW 41.04.005.

(b) A school district may issue a diploma to or on behalf of a person otherwise eligible under (a) of this subsection notwithstanding the fact that the person holds a high school equivalency certification or is deceased.

(c) The superintendent of public instruction shall adopt a form for a diploma application to be used by a veteran or a person acting on behalf of a deceased veteran under this subsection (3). The superintendent of public instruction shall specify what constitutes acceptable evidence of eligibility for a diploma.

(4)(a) A school district, at the request of the parent, guardian, or custodian, may issue a posthumous high school diploma for a deceased student if the student:

(i) Was enrolled in a public school of the district at the time of death;

(ii) Was deemed on-track for graduation before the time of death; and

(iii) Died after matriculating into high school.

(b) A high school diploma issued under this subsection (4) must bear the inscription "honoris causa" and may not be issued before the graduation date of the class in which the student was enrolled.

(c) Nothing in this subsection (4):

(i) Obligates school districts to award a diploma for a deceased student at the same ceremony or event as other graduating students; or

(ii) Limits the retroactive issuance of a high school diploma.

(d) Diplomas issued under this subsection (4) may not be applied toward student graduation counts or for any other purpose of federal and state accountability data collection.

NEW SECTION. Sec. 3. This act may be known and cited as Evitan's law."

Correct the title.

Signed by Representatives Santos, Chair; Dolan, Vice Chair; Ybarra, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Berg; Bergquist; Callan; McCaslin; McEntire; Ortiz-Self; Rude; Steele and Stonier.

Referred to Committee on Rules for second reading.

February 24, 2022

SB 5505 Prime Sponsor, Senator Rolfes: Reinstating a property tax exemption for property owned by certain nonprofit organizations where a portion of the property is used for the purpose of a farmers market. Reported by Committee on Finance

MAJORITY recommendation: Do pass. Signed by Representatives Frame, Chair; Berg, Vice Chair; Walen, Vice Chair; Orcutt, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Chase; Chopp; Harris-Talley; Morgan; Orwall; Ramel; Springer; Stokesbary; Thai; Vick and Wylie.

Referred to Committee on Rules for second reading.

February 24, 2022

SSB 5590 Prime Sponsor, Committee on Environment, Energy & Technology: Eliminating the 2022 expiration date of the marine resources advisory council. Reported by Committee on Environment & Energy

MAJORITY recommendation: Do pass. Signed by Representatives Fitzgibbon, Chair; Duerr, Vice Chair; Dye, Ranking Minority Member; Klicker, Assistant Ranking Minority Member; Abbarno; Berry; Boehnke; Fey; Goehner; Harris-Talley; Ramel; Shewmake and Slatter.

Referred to Committee on Rules for second reading.

February 24, 2022

ESSB 5628 Prime Sponsor, Committee on Law & Justice: Concerning cyber harassment, addressing concerns in the case of Rynearson v. Ferguson, and adding a crime of cyberstalking. Reported by Committee on Public Safety

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 9.61.260 and 2004 c 94 s 1 are each amended to read as follows:

(1) A person is guilty of ~~((cyberstalking))~~ cyber harassment if ~~((he or she))~~ the person, with intent to harass ~~((or))~~ or intimidate ~~((, torment, or embarrass))~~ any other person, and under circumstances not constituting telephone harassment, makes an electronic communication to ~~((such other))~~ that person or a third party and the communication:

(a) ~~((Using))~~ (i) Uses any lewd, lascivious, indecent, or obscene words, images, or language, or ~~((suggesting))~~ suggests the commission of any lewd or lascivious act;

~~((b) Anonymously))~~ (ii) Is made anonymously or repeatedly ~~((whether or not conversation occurs));~~ ~~((or~~

~~((c) Threatening to inflict injury on the person or property of the person called or any member of his or her family or household))~~ (iii) Contains a threat to inflict bodily injury immediately or in the future on the person threatened or to any other person; or

(iv) Contains a threat to damage, immediately or in the future, the property of the person threatened or of any other person; and

(b) With respect to any offense committed under the circumstances identified in (a)(iii) or (iv) of this subsection:

(i) Would cause a reasonable person, with knowledge of the sender's history, to suffer emotional distress or to fear for the safety of the person threatened; or

(ii) Reasonably caused the threatened person to suffer emotional distress or fear for the threatened person's safety.

~~(2) ((Cyberstalking is a gross misdemeanor, except as provided in subsection (3) of this section.~~

~~(3) Cyberstalking is a class C felony if either of the following applies:~~

~~(a) The perpetrator has previously been convicted of the crime of harassment, as defined in RCW 9A.46.060, with the same victim or a member of the victim's family or household or any person specifically named in a no-contact order or no-harassment order in this or any other state; or~~

~~(b) The perpetrator engages in the behavior prohibited under subsection (1)(c) of this section by threatening to kill the person threatened or any other person.~~

~~(4)) (a) Except as provided in (b) of this subsection, cyber harassment is a gross misdemeanor.~~

(b) A person who commits cyber harassment 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 cyber harasses another person under subsection (1)(a)(iii) of this section by threatening to kill the person threatened or any other person;

(iii) The person cyber harasses a criminal justice participant or election official who is performing the participant's official duties or election official's official duties at the time the communication is made;

(iv) The person cyber harasses a criminal justice participant or election official because of an action taken or decision made by the criminal justice participant or election official during the performance of the participant's

official duties or election official's official duties; or

(v) The person commits cyber harassment in violation of any protective order protecting the victim.

(3) Any criminal justice participant or election official 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 the participant or election official, 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 municipal court judge;

(b) Federal, state, or municipal court staff;

(c) Federal, state, or local law enforcement agency employee;

(d) Federal, state, or local prosecuting attorney or deputy prosecuting attorney;

(e) Staff member of any adult corrections institution or local adult detention facility;

(f) Staff member of any juvenile corrections institution or local juvenile detention facility;

(g) Community corrections officer, probation officer, or parole officer;

(h) Member of the indeterminate sentence review board;

(i) Advocate from a crime victim/witness program; or

(j) Defense attorney.

(5) For the purposes of this section, an election official includes any staff member of the office of the secretary of state or staff member of a county auditor's office, regardless of whether the member is employed on a temporary or part-time basis, whose duties relate to voter registration or the processing of votes as provided in Title 29A RCW.

(6) The penalties provided in this section for cyber harassment do not preclude the victim from seeking any other remedy otherwise available under law.

(7) Any offense committed under this section may be deemed to have been committed either at the place from which the communication was made or at the place where the communication was received.

~~((45))~~ (8) For purposes of this section, "electronic communication" means the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means. "Electronic communication" includes, but is not limited to, ~~((electronic mail))~~ email, internet-based communications, pager service, and electronic text messaging.

Sec. 2. RCW 9A.90.030 and 2016 c 164 s 3 are each amended to read as follows:

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

(1) "Access" means to gain entry to, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of electronic data, data network, or data system, including via electronic means.

(2) "Cybercrime" includes crimes of this chapter.

(3) "Data" means a digital representation of information, knowledge, facts, concepts, data software, data programs, or instructions that are being prepared or have been prepared in a formalized manner and are intended for use in a data network, data program, data services, or data system.

(4) "Data network" means any system that provides digital communications between one or more data systems or other digital input/output devices including, but not limited to, display terminals, remote systems, mobile devices, and printers.

(5) "Data program" means an ordered set of electronic data representing coded instructions or statements that when executed by a computer causes the device to process electronic data.

(6) "Data services" includes data processing, storage functions, internet services, email services, electronic message services, website access, internet-based electronic gaming services, and other similar system, network, or internet-based services.

(7) "Data system" means an electronic device or collection of electronic devices, including support devices one or more of which contain data programs, input data, and output data, and that performs functions including, but not limited to, logic, arithmetic, data storage and retrieval, communication, and control. This term does not include calculators that are not programmable and incapable of being used in conjunction with external files.

(8) "Electronic tracking device" means an electronic device that permits a person to remotely determine or monitor the position and movement of another person, vehicle, device, or other personal possession. As used in this definition, "electronic device" includes computer code or other digital instructions that once installed on a digital device, allows a person to remotely track the position of that device.

(9) "Identifying information" means information that, alone or in combination, is linked or linkable to a trusted entity that would be reasonably expected to request or provide credentials to access a targeted data system or network. It includes, but is not limited to, recognizable names, addresses, telephone numbers, logos, HTML links, email addresses, registered domain names, reserved IP addresses, user names, social media profiles, cryptographic keys, and biometric identifiers.

~~((49))~~ (10) "Malware" means any set of data instructions that are designed, without authorization and with malicious intent, to disrupt computer operations, gather sensitive information, or gain access to private computer systems. "Malware" does not include software that installs security updates, removes malware, or causes unintentional harm due to some deficiency. It includes, but is not limited to, a group of data instructions commonly called viruses or worms, that are self-replicating or self-propagating and are designed to infect other data programs or data, consume data resources, modify, destroy, record, or transmit data, or in some other fashion usurp the normal operation of the data, data system, or data network.

~~((410))~~ (11) "White hat security research" means accessing a data program, service, or system solely for purposes of good faith testing, investigation,

identification, and/or correction of a security flaw or vulnerability, where such activity is carried out, and where the information derived from the activity is used, primarily to promote security or safety.

~~((411))~~ (12) "Without authorization" means to knowingly circumvent technological access barriers to a data system in order to obtain information without the express or implied permission of the owner, where such technological access measures are specifically designed to exclude or prevent unauthorized individuals from obtaining such information, but does not include white hat security research or circumventing a technological measure that does not effectively control access to a computer. The term "without the express or implied permission" does not include access in violation of a duty, agreement, or contractual obligation, such as an acceptable use policy or terms of service agreement, with an internet service provider, internet website, or employer. The term "circumvent technological access barriers" may include unauthorized elevation of privileges, such as allowing a normal user to execute code as administrator, or allowing a remote person without any privileges to run code.

NEW SECTION. Sec. 3. A new section is added to chapter 9A.90 RCW to read as follows:

(1) A person commits the crime of cyberstalking if, without lawful authority and under circumstances not amounting to a felony attempt of another crime:

(a) The person knowingly and without consent:

(i) Installs or monitors an electronic tracking device with the intent to track the location of another person; or

(ii) Causes an electronic tracking device to be installed, placed, or used with the intent to track the location of another person; and

(b) (i) The person knows or reasonably should know that knowledge of the installation or monitoring of the tracking device would cause the other person reasonable fear;

(ii) The person has notice that the other person does not want to be contacted or monitored by him or her; or

(iii) The other person has a protective order in effect protecting him or her from the person.

(2) (a) It is not a defense to the crime of cyberstalking that the person was not given actual notice that the other person did not want the person to contact or monitor him or her; and

(b) It is not a defense to the crime of cyberstalking that the person did not intend to frighten, intimidate, or harass the other person.

(3) (a) Except as provided in (b) of this subsection, a person who cyberstalks another person is guilty of a gross misdemeanor.

(b) A person who cyberstalks another person is guilty of a class C felony if any of the following applies:

(i) The person has previously been convicted in this state or any other state of any crime of harassment, as defined in RCW 9A.46.060, of the same victim or members of the victim's family or household or any person specifically named in a protective order;

(ii) There is a protective order in effect protecting the victim from contact with the person;

(iii) The person has previously been convicted of a gross misdemeanor or felony stalking offense for stalking another person;

(iv) The person has previously been convicted of a gross misdemeanor or felony cyberstalking offense for cyberstalking another person;

(v) (A) The victim is or was a law enforcement officer; judge; juror; attorney; victim advocate; legislator; community corrections officer; employee, contract staff person, or volunteer of a correctional agency; court employee, court clerk, or courthouse facilitator; or employee of the child protective, child welfare, or adult protective services division within the department of social and health services; and

(B) The person cyberstalked the victim to retaliate against the victim for an act the victim performed during the course of official duties or to influence the victim's performance of official duties; or

(vi) The victim is a current, former, or prospective witness in an adjudicative proceeding, and the person cyberstalked

the victim to retaliate against the victim as a result of the victim's testimony or potential testimony.

(4) The provisions of this section do not apply to the installation, placement, or use of an electronic tracking device by any of the following:

(a) A law enforcement officer, judicial officer, probation or parole officer, or other public employee when any such person is engaged in the lawful performance of official duties and in accordance with state or federal law;

(b) The installation, placement, or use of an electronic tracking device authorized by an order of a state or federal court;

(c) A legal guardian for a disabled adult or a legally authorized individual or organization designated to provide protective services to a disabled adult when the electronic tracking device is installed, placed, or used to track the location of the disabled adult for which the person is a legal guardian or the individual or organization is designated to provide protective services;

(d) A parent or legal guardian of a minor when the electronic tracking device is installed, placed, or used to track the location of that minor unless the parent or legal guardian is subject to a court order that orders the parent or legal guardian not to assault, threaten, harass, follow, or contact that minor;

(e) An employer, school, or other organization, who owns the device on which the tracking device is installed and provides the device to a person for use in connection with the person's involvement with the employer, school, or other organization and the use of the device is limited to recovering lost or stolen items; or

(f) The owner of fleet vehicles, when tracking such vehicles. For the purposes of this section, "fleet vehicle" means any of the following:

(i) One or more motor vehicles owned by a single entity and operated by employees or agents of the entity for business or government purposes;

(ii) Motor vehicles held for lease or rental to the general public; or

(iii) Motor vehicles held for sale, or used as demonstrators, test vehicles, or

loaner vehicles, by motor vehicle dealers.

NEW SECTION. **Sec. 4.** RCW 9.61.260 is recodified as a new section in chapter 9A.90 RCW.

Sec. 5. RCW 40.24.030 and 2019 c 278 s 3 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, ~~((and))~~ (b) any election official as described in RCW 9.61.260 (as recodified by this act) who is a target for threats or harassment prohibited under RCW 9.61.260(2)(b) (iii) or (iv) (as recodified by this act), and any family members residing with him or her, and (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 9.61.260 (as recodified by this act) who is a target for threats or harassment prohibited under RCW 9.61.260(2)(b) (iii) or (iv) (as recodified by this act), and any family members residing with him or her, 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 safety or his or her children's safety, or the safety of the minor or incapacitated person on whose behalf the application is made; ~~((or))~~ (B) that the applicant, as an election official as described in RCW 9.61.260 (as recodified by this act), is a target for threats or harassment prohibited under RCW 9.61.260(2)(b) (iii) or (iv) (as recodified by this act); 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 9.61.260 (as recodified by this act) is a target for threats or harassment prohibited under RCW 9.61.260(2)(b) (iii) or (iv) (as recodified by this act);

(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 9.61.260(2)(b) (iii) or (iv) (as recodified by this act) or 9A.46.020(2)(b) (iii) or (iv);

(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 9.61.260(2)(b) (iii) or (iv) (as recodified by this act) or 9A.46.020(2)(b) (iii) or (iv);

(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

identocard 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 identocard 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 ~~((thirty))~~ 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, ~~((or))~~ (b) the safety of any election official as described in RCW 9.61.260 (as recodified by this act) who is a target for threats or harassment prohibited under RCW 9.61.260(2)(b) (iii) or (iv) (as recodified by this act), 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 9.61.260 (as recodified by this act) who is a

target for threats or harassment prohibited under RCW 9.61.260(2)(b)(iii) or (iv) (as recodified by this act), or any family members residing with him or her, shall be punished under RCW 40.16.030 or other applicable statutes.

Sec. 6. RCW 7.77.170 and 2013 c 119 s 18 are each amended to read as follows:

(1) There is no privilege under RCW 7.77.150 for a collaborative law communication that is:

(a) Available to the public under chapter 42.56 RCW or made during a session of a collaborative law process that is open, or is required by law to be open, to the public;

(b) A threat or statement of a plan to inflict bodily injury or commit a crime of violence;

(c) Intentionally used to plan a crime, commit or attempt to commit a crime, or conceal an ongoing crime or ongoing criminal activity; or

(d) In an agreement resulting from the collaborative law process, evidenced by a record signed by all parties to the agreement.

(2) The privileges under RCW 7.77.150 for a collaborative law communication do not apply to the extent that a communication is:

(a) Sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice arising from or related to a collaborative law process;

(b) Sought or offered to prove or disprove abuse, neglect, abandonment, or exploitation of a child or adult, unless the child protective services agency or adult protective services agency is a party to or otherwise participates in the process; or

(c) Sought or offered to prove or disprove stalking or ~~((cyberstalking))~~ cyber harassment of a party or child.

(3) There is no privilege under RCW 7.77.150 if a tribunal finds, after a hearing in camera, that the party seeking discovery or the proponent of the evidence has shown the evidence is not otherwise available, the need for the evidence substantially outweighs the interest in protecting confidentiality, and the collaborative law communication is sought or offered in:

(a) A court proceeding involving a felony or misdemeanor; or

(b) A proceeding seeking rescission or reformation of a contract arising out of the collaborative law process or in which a defense to avoid liability on the contract is asserted.

(4) If a collaborative law communication is subject to an exception under subsection (2) or (3) of this section, only the part of the communication necessary for the application of the exception may be disclosed or admitted.

(5) Disclosure or admission of evidence excepted from the privilege under subsection (2) or (3) of this section does not make the evidence or any other collaborative law communication discoverable or admissible for any other purpose.

(6) The privileges under RCW 7.77.150 do not apply if the parties agree in advance in a signed record, or if a record of a proceeding reflects agreement by the parties, that all or part of a collaborative law process is not privileged. This subsection does not apply to a collaborative law communication made by a person that did not receive actual notice of the agreement before the communication was made.

Sec. 7. RCW 7.92.020 and 2020 c 296 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) "Electronic monitoring" means the same as in RCW 9.94A.030.

(2) "Minor" means a person who is under ~~((eighteen))~~ 18 years of age.

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

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

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

(b) Any act of ~~((cyberstalking))~~ cyber harassment as defined under RCW 9.61.260 (as recodified by this act);

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

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

(ii) Serves no lawful purpose; and

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

(5) "Stalking no-contact order" means a temporary order or a final order granted under this chapter against a person charged with or arrested for stalking, which includes a remedy authorized under RCW 7.92.160.

(6) "Stalking protection order" means an ex parte temporary order or a final order granted under this chapter, which includes a remedy authorized in RCW 7.92.100.

Sec. 8. RCW 7.105.010 and 2021 c 215 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) "Abandonment" means action or inaction by a person or entity with a duty of care for a vulnerable adult that leaves the vulnerable adult without the means or ability to obtain necessary food, clothing, shelter, or health care.

(2) "Abuse," for the purposes of a vulnerable adult protection order, means 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, personal exploitation, and improper use of restraint against a vulnerable adult, which have the following meanings:

(a) "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.

(b) "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, swearing, or withholding or tampering with prescribed medications or their dosage.

(c) "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.

(d) "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, strangulation, suffocation, kicking, shoving, or prodding.

(e) "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 the sexual conduct is consensual.

(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" in the context of sexual acts means that at the time of sexual contact, there are actual words or conduct indicating freely given agreement to that sexual contact. Consent must be ongoing and may be revoked at any time. Conduct short of voluntary agreement does not constitute consent as a matter of law. Consent cannot be freely given when a person does not have capacity due to disability, intoxication, or age. Consent cannot be freely given when the other party has authority or control over the care or custody of a person incarcerated or detained.

(5)(a) "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose. "Course of conduct" includes any form of communication, contact, or conduct, including the sending of an electronic communication, but does not include constitutionally protected free speech. Constitutionally protected activity is not included within the meaning of "course of conduct."

(b) In determining whether the course of conduct serves any legitimate or lawful purpose, a court should consider whether:

(i) Any current contact between the parties was initiated by the respondent only or was initiated by both parties;

(ii) The respondent has been given clear notice that all further contact with the petitioner is unwanted;

(iii) The respondent's course of conduct appears designed to alarm, annoy, or harass the petitioner;

(iv) The respondent is acting pursuant to any statutory authority including, but not limited to, acts which are reasonably necessary to:

(A) Protect property or liberty interests;

(B) Enforce the law; or

(C) Meet specific statutory duties or requirements;

(v) The respondent's course of conduct has the purpose or effect of unreasonably interfering with the petitioner's privacy or the purpose or effect of creating an intimidating, hostile, or offensive living environment for the petitioner; or

(vi) Contact by the respondent with the petitioner or the petitioner's family has been limited in any manner by any previous court order.

(6) "Court clerk" means court administrators in courts of limited jurisdiction and elected court clerks.

(7) "Dating relationship" means a social relationship of a romantic nature. Factors that the court may consider in making this determination include: (a) The length of time the relationship has existed; (b) the nature of the relationship; and (c) the frequency of interaction between the parties.

(8) "Domestic violence" means:

(a) Physical harm, bodily injury, assault, or the infliction of fear of physical harm, bodily injury, or assault; nonconsensual sexual conduct or nonconsensual sexual penetration; unlawful harassment; or stalking of one intimate partner by another intimate partner; or

(b) Physical harm, bodily injury, assault, or the infliction of fear of physical harm, bodily injury, or assault; nonconsensual sexual conduct or nonconsensual sexual penetration; unlawful harassment; or stalking of one family or household member by another family or household member.

(9) "Electronic monitoring" has the same meaning as in RCW 9.94A.030.

(10) "Essential personal effects" means those items necessary for a person's immediate health, welfare, and livelihood. "Essential personal effects" includes, but is not limited to, clothing, cribs, bedding, medications, personal hygiene items, cellular phones and other electronic devices, and documents, including immigration, health care, financial, travel, and identity documents.

(11) "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 of social and health services.

(12) "Family or household members" means: (a) Persons related by blood, marriage, domestic partnership, or

adoption; (b) persons who currently or formerly resided together; (c) persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren, or a parent's intimate partner and children; and (d) a person who is acting or has acted as a legal guardian.

(13) "Financial exploitation" means the illegal or improper use of, 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, government benefits, health insurance benefits, 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 or conservatorship 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 the vulnerable adult's property, income, resources, or trust funds.

(14) "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. "Firearm" also includes parts that can be assembled to make a firearm.

(15) "Full hearing" means a hearing where the court determines whether to issue a full protection order.

(16) "Full protection order" means a protection order that is issued by the court after notice to the respondent and where the parties had the opportunity for a full hearing by the court. "Full protection order" includes a protection order entered by the court by agreement of the parties to resolve the petition for a protection order without a full hearing.

(17) "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.

(18) "Interested person" means a person who demonstrates to the court's satisfaction that the person is interested in the welfare of a 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.

(19) "Intimate partner" means: (a) Spouses or domestic partners; (b) former spouses or former domestic partners; (c) persons who have a child in common regardless of whether they have been married or have lived together at any time; or (d) persons who have or have had a dating relationship where both persons are at least 13 years of age or older.

(20) (a) "Isolate" or "isolation" means to restrict a person'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 person from sending, making, or receiving his or her personal mail, electronic communications, or telephone calls; or

(ii) Acts that prevent or obstruct a person from meeting with others, such as telling a prospective visitor or caller that the person is not present or does not wish contact, where the statement is contrary to the express wishes of the person.

(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 11.92 RCW or prevents a hospital or facility from providing treatment consistent with the standard of care for delivery of health services.

(21) "Judicial day" means days of the week other than Saturdays, Sundays, or legal holidays.

(22) "Mechanical restraint" means any device attached or adjacent to a vulnerable adult's body that the vulnerable adult cannot easily remove that restricts freedom of movement or normal access to the vulnerable adult's 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.

(23) "Minor" means a person who is under 18 years of age.

(24) "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 the 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.

(25) "Nonconsensual" means a lack of freely given consent.

(26) "Nonphysical contact" includes, but is not limited to, written notes, mail, telephone calls, email, text messages, contact through social media applications, contact through other technologies, and contact through third parties.

(27) "Petitioner" means any named petitioner or any other person identified in the petition on whose behalf the petition is brought.

(28) "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.

(29) "Possession" means having an item in one's custody or control. Possession may be either actual or constructive. Actual possession occurs when the item is in the actual physical custody of the person charged with possession. Constructive possession occurs when there is no actual physical possession, but there is dominion and control over the item.

(30) "Respondent" means the person who is identified as the respondent in a petition filed under this chapter.

(31) "Sexual conduct" means any of the following:

(a) Any intentional or knowing touching or fondling of the genitals, anus, or breasts, directly or indirectly, including through clothing;

(b) Any intentional or knowing display of the genitals, anus, or breasts for the purposes of arousal or sexual gratification of the respondent;

(c) Any intentional or knowing touching or fondling of the genitals, anus, or breasts, directly or indirectly, including through clothing, that the petitioner is forced to perform by another person or the respondent;

(d) Any forced display of the petitioner's genitals, anus, or breasts for the purposes of arousal or sexual gratification of the respondent or others;

(e) Any intentional or knowing touching of the clothed or unclothed body of a child under the age of 16, if done for the purpose of sexual gratification or arousal of the respondent or others; or

(f) Any coerced or forced touching or fondling by a child under the age of 16, directly or indirectly, including through clothing, of the genitals, anus, or breasts of the respondent or others.

(32) "Sexual penetration" means any contact, however slight, between the sex organ or anus of one person by an object, the sex organ, mouth, or anus of another person, or any intrusion, however slight, of any part of the body of one person or of any animal or object into the sex organ or anus of another person including, but not limited to, cunnilingus, fellatio, or anal penetration. Evidence of emission of semen is not required to prove sexual penetration.

(33) "Stalking" means any of the following:

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

(b) Any act of (~~cyberstalking~~) cyber harassment as defined under RCW 9.61.260 (as recodified by this act); or

(c) Any course of conduct involving repeated or continuing contacts, attempts to contact, monitoring, tracking, surveillance, keeping under observation, disrupting activities in a harassing manner, or following of another person that:

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

(ii) Serves no lawful purpose; and

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

(34) "Temporary protection order" means a protection order that is issued before the court has decided whether to issue a full protection order. "Temporary protection order" includes ex parte temporary protection orders, as well as temporary protection orders that are reissued by the court pending the completion of a full hearing to decide whether to issue a full protection order. An "ex parte temporary protection order" means a temporary protection order that is issued without prior notice to the respondent.

(35) "Unlawful harassment" means:

(a) A knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, harasses,

or is detrimental to such person, and that serves no legitimate or lawful purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the petitioner; or

(b) A single act of violence or threat of violence directed at a specific person that seriously alarms, annoys, harasses, or is detrimental to such person, and that serves no legitimate or lawful purpose, which would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the petitioner. A single threat of violence must include: (i) A malicious and intentional threat as described in RCW 9A.36.080(1)(c); or (ii) the presence of a firearm or other weapon.

(36) "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 a person under contract with the department of social and health services to provide services in the home under chapter 74.09 or 74.39A RCW; or

(g) Who self-directs his or her own care and receives services from a personal aide under chapter 74.39 RCW.

Sec. 9. RCW 7.105.310 and 2021 c 215 s 39 are each amended to read as follows:

(1) In issuing any type of protection order, other than an extreme risk protection order, the court shall have broad discretion to grant such relief as the court deems proper, including an order that provides relief as follows:

(a) Restrain the respondent from committing any of the following acts

against the petitioner and other persons protected by the order: Domestic violence; nonconsensual sexual conduct or nonconsensual sexual penetration; sexual abuse; stalking; acts of abandonment, abuse, neglect, or financial exploitation against a vulnerable adult; and unlawful harassment;

(b) Restrain the respondent from making any attempts to have contact, including nonphysical contact, with the petitioner or the petitioner's family or household members who are minors or other members of the petitioner's household, either directly, indirectly, or through third parties regardless of whether those third parties know of the order;

(c) Exclude the respondent from the dwelling that the parties share; from the residence, workplace, or school of the petitioner; or from the day care or school of a minor child;

(d) Restrain the respondent from knowingly coming within, or knowingly remaining within, a specified distance from a specified location including, but not limited to, a residence, school, day care, workplace, the protected party's person, and the protected party's vehicle. The specified distance shall presumptively be at least 1,000 feet, unless the court for good cause finds that a shorter specified distance is appropriate;

(e) If the parties have children in common, make residential provisions with regard to their minor children on the same basis as is provided in chapter 26.09 RCW. However, parenting plans as specified in chapter 26.09 RCW must not be required under this chapter. The court may not delay or defer relief under this chapter on the grounds that the parties could seek a parenting plan or modification to a parenting plan in a different action. A protection order must not be denied on the grounds that the parties have an existing parenting plan in effect. A protection order may suspend the respondent's contact with the parties' children under an existing parenting plan, subject to further orders in a family law proceeding;

(f) Order the respondent to participate in a state-certified domestic violence perpetrator treatment program approved under RCW 43.20A.735 or a state-certified sex offender treatment program approved under RCW 18.155.070;

(g) Order the respondent to obtain a mental health or chemical dependency evaluation. If the court determines that a mental health evaluation is necessary, the court shall clearly document the reason for this determination and provide a specific question or questions to be answered by the mental health professional. The court shall consider the ability of the respondent to pay for an evaluation. Minors are presumed to be unable to pay. The parent or legal guardian is responsible for costs unless the parent or legal guardian demonstrates inability to pay;

(h) In cases where the petitioner and the respondent are students who attend the same public or private elementary, middle, or high school, the court, when issuing a protection order and providing relief, shall consider, among the other facts of the case, the severity of the act, any continuing physical danger, emotional distress, or educational disruption to the petitioner, and the financial difficulty and educational disruption that would be caused by a transfer of the respondent to another school. The court may order that the respondent not attend the public or private elementary, middle, or high school attended by the petitioner. If a minor respondent is prohibited attendance at the minor's assigned public school, the school district must provide the student comparable educational services in another setting. In such a case, the district shall provide transportation at no cost to the respondent if the respondent's parent or legal guardian is unable to pay for transportation. The district shall put in place any needed supports to ensure successful transition to the new school environment. The court shall send notice of the restriction on attending the same school as the petitioner to the public or private school the respondent will attend and to the school the petitioner attends;

(i) Require the respondent to pay the administrative court costs and service fees, as established by the county or municipality incurring the expense, and to reimburse the petitioner for costs incurred in bringing the action, including reasonable attorneys' fees or limited license legal technician fees when such fees are incurred by a person licensed and practicing in accordance with state supreme court admission and practice rule 28, the limited practice rule for limited license legal

technicians. Minors are presumed to be unable to pay. The parent or legal guardian is responsible for costs unless the parent or legal guardian demonstrates inability to pay;

(j) Restrain the respondent from harassing, following, monitoring, keeping under physical or electronic surveillance, (~~cyberstalking~~) cyber harassment as defined in RCW 9.61.260 (as recodified by this act), and using telephonic, audiovisual, or other electronic means to monitor the actions, location, or communication of the petitioner or the petitioner's family or household members who are minors or other members of the petitioner's household. For the purposes of this subsection, "communication" includes both "wire communication" and "electronic communication" as defined in RCW 9.73.260;

(k) Other than for respondents who are minors, require the respondent to submit to electronic monitoring. The order must specify who shall provide the electronic monitoring services and the terms under which the monitoring must be performed. The order also may include a requirement that the respondent pay the costs of the monitoring. The court shall consider the ability of the respondent to pay for electronic monitoring;

(l) Consider the provisions of RCW 9.41.800, and order the respondent to surrender, and prohibit the respondent from accessing, having in his or her custody or control, possessing, purchasing, attempting to purchase or receive, or receiving, all firearms, dangerous weapons, and any concealed pistol license, as required in RCW 9.41.800;

(m) Order possession and use of essential personal effects. The court shall list the essential personal effects with sufficient specificity to make it clear which property is included. Personal effects may include pets. The court may order that a petitioner be granted the exclusive custody or control of any pet owned, possessed, leased, kept, or held by the petitioner, respondent, or minor child residing with either the petitioner or respondent, and may prohibit the respondent from interfering with the petitioner's efforts to obtain the pet. The court may also prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified distance of

specified locations where the pet is regularly found;

(n) Order use of a vehicle;

(o) Enter an order restricting the respondent from engaging in abusive litigation as set forth in chapter 26.51 RCW or in frivolous filings against the petitioner, making harassing or libelous communications about the petitioner to third parties, or making false reports to investigative agencies. A petitioner may request this relief in the petition or by separate motion. A petitioner may request this relief by separate motion at any time within five years of the date the protection order is entered even if the order has since expired. A stand-alone motion for an order restricting abusive litigation may be brought by a party who meets the requirements of chapter 26.51 RCW regardless of whether the party has previously sought a protection order under this chapter, provided the motion is made within five years of the date the order that made a finding of domestic violence was entered. In cases where a finding of domestic violence was entered pursuant to an order under chapter 26.09, 26.26, or 26.26A RCW, a motion for an order restricting abusive litigation may be brought under the family law case or as a stand-alone action filed under this chapter, when it is not reasonable or practical to file under the family law case;

(p) Restrain the respondent from committing acts of abandonment, abuse, neglect, or financial exploitation against a vulnerable adult;

(q) Require an accounting by the respondent of the disposition of the vulnerable adult's income or other resources;

(r) Restrain the transfer of either the respondent's or vulnerable adult's property, or both, for a specified period not exceeding 90 days;

(s) Order financial relief and restrain the transfer of jointly owned assets;

(t) Restrain the respondent from possessing or distributing intimate images, as defined in RCW 9A.86.010, depicting the petitioner including, but not limited to, requiring the respondent to: Take down and delete all intimate images and recordings of the petitioner in the respondent's possession or control; and cease any and all disclosure

of those intimate images. The court may also inform the respondent that it would be appropriate to ask third parties in possession or control of the intimate images of this protection order to take down and delete the intimate images so that the order may not inadvertently be violated; or

(u) Order other relief as it deems necessary for the protection of the petitioner and other family or household members who are minors or vulnerable adults for whom the petitioner has sought protection, including orders or directives to a law enforcement officer, as allowed under this chapter.

(2) The court in granting a temporary antiharassment protection order or a civil antiharassment protection order shall not prohibit the respondent from exercising constitutionally protected free speech. Nothing in this section prohibits the petitioner from utilizing other civil or criminal remedies to restrain conduct or communications not otherwise constitutionally protected.

(3) The court shall not take any of the following actions in issuing a protection order.

(a) The court may not order the petitioner to obtain services including, but not limited to, drug testing, victim support services, a mental health assessment, or a psychological evaluation.

(b) The court may not order the petitioner to pay the respondent's attorneys' fees or other costs.

(c) The court shall not issue a full protection order to any party except upon notice to the respondent and the opportunity for a hearing pursuant to a petition or counter-petition filed and served by the party seeking relief in accordance with this chapter. Except as provided in RCW 7.105.210, the court shall not issue a temporary protection order to any party unless the party has filed a petition or counter-petition for a protection order seeking relief in accordance with this chapter.

(d) Under no circumstances shall the court deny the petitioner the type of protection order sought in the petition on the grounds that the court finds that a different type of protection order would have a less severe impact on the respondent.

(4) The order shall specify the date the order expires, if any. For permanent orders, the court shall set the date to expire 99 years from the issuance date. The order shall also state whether the court issued the protection order following personal service, service by electronic means, service by mail, or service by publication, and whether the court has approved service by mail or publication of an order issued under this section.

Sec. 10. RCW 9.94A.030 and 2021 c 237 s 1 are each amended to read as follows:

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

(1) "Board" means the indeterminate sentence review board created under chapter 9.95 RCW.

(2) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department, means that the department, either directly or through a collection agreement authorized by RCW 9.94A.760, is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(3) "Commission" means the sentencing guidelines commission.

(4) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(5) "Community custody" means that portion of an offender's sentence of confinement in lieu of earned release time or imposed as part of a sentence under this chapter and served in the community subject to controls placed on the offender's movement and activities by the department.

(6) "Community protection zone" means the area within (~~eight hundred eighty~~) 880 feet of the facilities and grounds of a public or private school.

(7) "Community restitution" means compulsory service, without

compensation, performed for the benefit of the community by the offender.

(8) "Confinement" means total or partial confinement.

(9) "Conviction" means an adjudication of guilt pursuant to Title 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(10) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct. However, affirmative acts necessary to monitor compliance with the order of a court may be required by the department.

(11) "Criminal history" means the list of a defendant's prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere, and any issued certificates of restoration of opportunity pursuant to RCW 9.97.020.

(a) The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) A conviction may be removed from a defendant's criminal history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or a similar out-of-state statute, or if the conviction has been vacated pursuant to a governor's pardon. However, when a defendant is charged with a recidivist offense, "criminal history" includes a vacated prior conviction for the sole purpose of establishing that such vacated prior conviction constitutes an element of the present recidivist offense as provided in RCW 9.94A.640(4)(b) and 9.96.060(7)(c).

(c) The determination of a defendant's criminal history is distinct from the determination of an offender score. A prior conviction that was not included in an offender score calculated pursuant to a former version of the sentencing reform act remains part of the defendant's criminal history.

(12) "Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having a common name or common identifying sign or symbol, having as one of its primary activities the commission of criminal acts, and whose members or associates individually or collectively engage in or have engaged in a pattern of criminal street gang activity. This definition does not apply to employees engaged in concerted activities for their mutual aid and protection, or to the activities of labor and bona fide nonprofit organizations or their members or agents.

(13) "Criminal street gang associate or member" means any person who actively participates in any criminal street gang and who intentionally promotes, furthers, or assists in any criminal act by the criminal street gang.

(14) "Criminal street gang-related offense" means any felony or misdemeanor offense, whether in this state or elsewhere, that is committed for the benefit of, at the direction of, or in association with any criminal street gang, or is committed with the intent to promote, further, or assist in any criminal conduct by the gang, or is committed for one or more of the following reasons:

(a) To gain admission, prestige, or promotion within the gang;

(b) To increase or maintain the gang's size, membership, prestige, dominance, or control in any geographical area;

(c) To exact revenge or retribution for the gang or any member of the gang;

(d) To obstruct justice, or intimidate or eliminate any witness against the gang or any member of the gang;

(e) To directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage for the gang, its reputation, influence, or membership; or

(f) To provide the gang with any advantage in, or any control or dominance over any criminal market sector, including, but not limited to, manufacturing, delivering, or selling any controlled substance (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88 RCW); human trafficking

(RCW 9A.40.100); promoting commercial sexual abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter 9.68 RCW).

(15) "Day fine" means a fine imposed by the sentencing court that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

(16) "Day reporting" means a program of enhanced supervision designed to monitor the offender's daily activities and compliance with sentence conditions, and in which the offender is required to report daily to a specific location designated by the department or the sentencing court.

(17) "Department" means the department of corrections.

(18) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community custody, the number of actual hours or days of community restitution work, or dollars or terms of a legal financial obligation. The fact that an offender through earned release can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(19) "Disposable earnings" means that part of the earnings of an offender remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(20) "Domestic violence" has the same meaning as defined in RCW 10.99.020 and 26.50.010.

(21) "Drug offender sentencing alternative" is a sentencing option available to persons convicted of a felony offense who are eligible for the option under RCW 9.94A.660.

(22) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.4013) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(23) "Earned release" means earned release from confinement as provided in RCW 9.94A.728.

(24) "Electronic monitoring" means tracking the location of an individual through the use of technology that is capable of determining or identifying the monitored individual's presence or absence at a particular location including, but not limited to:

(a) Radio frequency signaling technology, which detects if the monitored individual is or is not at an approved location and notifies the monitoring agency of the time that the monitored individual either leaves the approved location or tampers with or removes the monitoring device; or

(b) Active or passive global positioning system technology, which detects the location of the monitored individual and notifies the monitoring agency of the monitored individual's location and which may also include electronic monitoring with victim notification technology that is capable of notifying a victim or protected party, either directly or through a monitoring agency, if the monitored individual enters within the restricted distance of a victim or protected party, or within the restricted distance of a designated location.

(25) "Escape" means:

(a) Sexually violent predator escape (RCW 9A.76.115), escape in the first degree (RCW 9A.76.110), escape in the

second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(26) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-run injury-accident (RCW 46.52.020(4)), felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(27) "Fine" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specific period of time.

(28) "First-time offender" means any person who has no prior convictions for a felony and is eligible for the first-time offender waiver under RCW 9.94A.650.

(29) "Home detention" is a subset of electronic monitoring and means a program of partial confinement available to offenders wherein the offender is confined in a private residence (~~twenty-four~~) 24 hours a day, unless an absence from the residence is approved, authorized, or otherwise permitted in the order by the court or other supervising agency that ordered home detention, and the offender is subject to electronic monitoring.

(30) "Homelessness" or "homeless" means a condition where an individual lacks a fixed, regular, and adequate nighttime residence and who has a primary nighttime residence that is:

(a) A supervised, publicly or privately operated shelter designed to provide temporary living accommodations;

(b) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; or

(c) A private residence where the individual stays as a transient invitee.

(31) "Legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to RCW 38.52.430.

(32) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age (~~fourteen~~) 14;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Sexual exploitation;

(p) 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;

(q) 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;

(r) Any other class B felony offense with a finding of sexual motivation;

(s) Any other felony with a deadly weapon verdict under RCW 9.94A.825;

(t) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection;

(u) (i) A prior conviction for indecent liberties under RCW 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

(ii) A prior conviction for indecent liberties under RCW 9A.44.100(1) (c) as it existed from June 11, 1986, until July 1, 1988, if: (A) The crime was committed against a child under the age of ~~((fourteen))~~ 14; or (B) the relationship between the victim and perpetrator is included in the definition of indecent liberties under RCW 9A.44.100(1) (c) as it existed from July 1, 1988, through July 27, 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993, through July 27, 1997;

(v) Any out-of-state conviction for a felony offense with a finding of sexual motivation if the minimum sentence imposed was ~~((ten))~~ 10 years or more; provided that the out-of-state felony offense must be comparable to a felony

offense under this title and Title 9A RCW and the out-of-state definition of sexual motivation must be comparable to the definition of sexual motivation contained in this section.

(33) "Nonviolent offense" means an offense which is not a violent offense.

(34) "Offender" means a person who has committed a felony established by state law and is ~~((eighteen))~~ 18 years of age or older or is less than ~~((eighteen))~~ 18 years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. In addition, for the purpose of community custody requirements under this chapter, "offender" also means a misdemeanor or gross misdemeanor probationer ordered by a superior court to probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and supervised by the department pursuant to RCW 9.94A.501 and 9.94A.5011. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

(35) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention, electronic monitoring, or work crew has been ordered by the court or home detention has been ordered by the department as part of the parenting program or the graduated reentry program, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, electronic monitoring, and a combination of work crew, electronic monitoring, and home detention.

(36) "Pattern of criminal street gang activity" means:

(a) The commission, attempt, conspiracy, or solicitation of, or any prior juvenile adjudication of or adult conviction of, two or more of the following criminal street gang-related offenses:

(i) Any "serious violent" felony offense as defined in this section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a Child 1 (RCW 9A.36.120);

(ii) Any "violent" offense as defined by this section, excluding Assault of a Child 2 (RCW 9A.36.130);

(iii) Deliver or Possession with Intent to Deliver a Controlled Substance (chapter 69.50 RCW);

(iv) Any violation of the firearms and dangerous weapon act (chapter 9.41 RCW);

(v) Theft of a Firearm (RCW 9A.56.300);

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

(vii) Hate Crime (RCW 9A.36.080);

(viii) Harassment where a subsequent violation or deadly threat is made (RCW 9A.46.020(2) (b));

(ix) Criminal Gang Intimidation (RCW 9A.46.120);

(x) Any felony conviction by a person (~~eighteen~~) 18 years of age or older with a special finding of involving a juvenile in a felony offense under RCW 9.94A.833;

(xi) Residential Burglary (RCW 9A.52.025);

(xii) Burglary 2 (RCW 9A.52.030);

(xiii) Malicious Mischief 1 (RCW 9A.48.070);

(xiv) Malicious Mischief 2 (RCW 9A.48.080);

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

(xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);

(xvii) Taking a Motor Vehicle Without Permission 1 (RCW 9A.56.070);

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

(xix) Extortion 1 (RCW 9A.56.120);

(xx) Extortion 2 (RCW 9A.56.130);

(xxi) Intimidating a Witness (RCW 9A.72.110);

(xxii) Tampering with a Witness (RCW 9A.72.120);

(xxiii) Reckless Endangerment (RCW 9A.36.050);

(xxiv) Coercion (RCW 9A.36.070);

(xxv) Harassment (RCW 9A.46.020); or

(xxvi) Malicious Mischief 3 (RCW 9A.48.090);

(b) That at least one of the offenses listed in (a) of this subsection shall have occurred after July 1, 2008;

(c) That the most recent committed offense listed in (a) of this subsection occurred within three years of a prior offense listed in (a) of this subsection; and

(d) Of the offenses that were committed in (a) of this subsection, the offenses occurred on separate occasions or were committed by two or more persons.

(37) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.525; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, assault of a child in the second degree, or burglary in the first degree; or (C) an attempt to commit any crime listed in this subsection (37) (b) (i); and

(ii) Has, before the commission of the offense under (b) (i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b) (i) of this subsection or any federal or out-

of-state offense or offense under prior Washington law that is comparable to the offenses listed in (b)(i) of this subsection. A conviction for rape of a child in the first degree constitutes a conviction under (b)(i) of this subsection only when the offender was ~~((sixteen))~~ 16 years of age or older when the offender committed the offense. A conviction for rape of a child in the second degree constitutes a conviction under (b)(i) of this subsection only when the offender was ~~((eighteen))~~ 18 years of age or older when the offender committed the offense.

(38) "Predatory" means: (a) The perpetrator of the crime was a stranger to the victim, as defined in this section; (b) the perpetrator established or promoted a relationship with the victim prior to the offense and the victimization of the victim was a significant reason the perpetrator established or promoted the relationship; or (c) the perpetrator was: (i) A teacher, counselor, volunteer, or other person in authority in any public or private school and the victim was a student of the school under his or her authority or supervision. For purposes of this subsection, "school" does not include home-based instruction as defined in RCW 28A.225.010; (ii) a coach, trainer, volunteer, or other person in authority in any recreational activity and the victim was a participant in the activity under his or her authority or supervision; (iii) a pastor, elder, volunteer, or other person in authority in any church or religious organization, and the victim was a member or participant of the organization under his or her authority; or (iv) a teacher, counselor, volunteer, or other person in authority providing home-based instruction and the victim was a student receiving home-based instruction while under his or her authority or supervision. For purposes of this subsection: (A) "Home-based instruction" has the same meaning as defined in RCW 28A.225.010; and (B) "teacher, counselor, volunteer, or other person in authority" does not include the parent or legal guardian of the victim.

(39) "Private school" means a school regulated under chapter 28A.195 or 28A.205 RCW.

(40) "Public school" has the same meaning as in RCW 28A.150.010.

(41) "Recidivist offense" means a felony offense where a prior conviction of the same offense or other specified offense is an element of the crime including, but not limited to:

(a) Assault in the fourth degree where domestic violence is pleaded and proven, RCW 9A.36.041(3);

(b) ~~((Cyberstalking))~~ Cyber harassment, RCW 9.61.260 ~~((3)(a))~~ (2)(b)(i) (as recodified by this act);

(c) Harassment, RCW 9A.46.020(2)(b)(i);

(d) Indecent exposure, RCW 9A.88.010(2)(c);

(e) Stalking, RCW 9A.46.110(5)(b)(i) and (iii);

(f) Telephone harassment, RCW 9.61.230(2)(a); and

(g) Violation of a no-contact or protection order, RCW 26.50.110(5).

(42) "Repetitive domestic violence offense" means any:

(a)(i) Domestic violence assault that is not a felony offense under RCW 9A.36.041;

(ii) Domestic violence violation of a no-contact order under chapter 10.99 RCW that is not a felony offense;

(iii) Domestic violence violation of a protection order under chapter 26.09, 26.26A, 26.26B, or 26.50 RCW that is not a felony offense;

(iv) Domestic violence harassment offense under RCW 9A.46.020 that is not a felony offense; or

(v) Domestic violence stalking offense under RCW 9A.46.110 that is not a felony offense; or

(b) Any federal, out-of-state, tribal court, military, county, or municipal conviction for an offense that under the laws of this state would be classified as a repetitive domestic violence offense under (a) of this subsection.

(43) "Restitution" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specified period of time as payment of damages. The sum may include both public and private costs.

(44) "Risk assessment" means the application of the risk instrument recommended to the department by the

Washington state institute for public policy as having the highest degree of predictive accuracy for assessing an offender's risk of reoffense.

(45) "Serious traffic offense" means:

(a) Nonfelony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), nonfelony actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

(46) "Serious violent offense" is a subcategory of violent offense and means:

(a) (i) Murder in the first degree;

(ii) Homicide by abuse;

(iii) Murder in the second degree;

(iv) Manslaughter in the first degree;

(v) Assault in the first degree;

(vi) Kidnapping in the first degree;

(vii) Rape in the first degree;

(viii) Assault of a child in the first degree; or

(ix) An attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

(47) "Sex offense" means:

(a) (i) A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.132;

(ii) A violation of RCW 9A.64.020;

(iii) A felony that is a violation of chapter 9.68A RCW other than RCW 9.68A.080;

(iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes; or

(v) A felony violation of RCW 9A.44.132(1) (failure to register as a

sex offender) if the person has been convicted of violating RCW 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130 prior to June 10, 2010, on at least one prior occasion;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a sex offense in (a) of this subsection;

(c) A felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135; or

(d) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

(48) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

(49) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(50) "Statutory maximum sentence" means the maximum length of time for which an offender may be confined as punishment for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the crime, or other statute defining the maximum penalty for a crime.

(51) "Stranger" means that the victim did not know the offender (~~(twenty-four)~~ 24 hours before the offense.

(52) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for (~~(twenty-four)~~ 24 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

(53) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

(54) "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.

(55) "Victim of domestic violence" means an intimate partner or household member who has been subjected to the infliction of physical harm or sexual and psychological abuse by an intimate partner or household member as part of a pattern of assaultive, coercive, and controlling behaviors directed at achieving compliance from or control over that intimate partner or household member. Domestic violence includes, but is not limited to, the offenses listed in RCW 10.99.020 and 26.50.010 committed by an intimate partner or household member against a victim who is an intimate partner or household member.

(56) "Victim of sex trafficking, prostitution, or commercial sexual abuse of a minor" means a person who has been forced or coerced to perform a commercial sex act including, but not limited to, being a victim of offenses defined in RCW 9A.40.100, 9A.88.070, 9.68A.101, and the trafficking victims protection act of 2000, 22 U.S.C. Sec. 7101 et seq.; or a person who was induced to perform a commercial sex act when they were less than 18 years of age including but not limited to the offenses defined in chapter 9.68A RCW.

(57) "Victim of sexual assault" means any person who is a victim of a sexual assault offense, nonconsensual sexual conduct, or nonconsensual sexual penetration and as a result suffers physical, emotional, financial, or psychological impacts. Sexual assault offenses include, but are not limited to, the offenses defined in chapter 9A.44 RCW.

(58) "Violent offense" means:

(a) Any of the following felonies:

(i) Any felony defined under any law as a class A felony or an attempt to commit a class A felony;

(ii) Criminal solicitation of or criminal conspiracy to commit a class A felony;

(iii) Manslaughter in the first degree;

(iv) Manslaughter in the second degree;

(v) Indecent liberties if committed by forcible compulsion;

(vi) Kidnapping in the second degree;

(vii) Arson in the second degree;

(viii) Assault in the second degree;

(ix) Assault of a child in the second degree;

(x) Extortion in the first degree;

(xi) Robbery in the second degree;

(xii) Drive-by shooting;

(xiii) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner; and

(xiv) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

(59) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community that complies with RCW 9.94A.725.

(60) "Work ethic camp" means an alternative incarceration program as provided in RCW 9.94A.690 designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

(61) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school.

Sec. 11. RCW 9.94A.030 and 2021 c 237 s 1 and 2021 c 215 s 97 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) "Board" means the indeterminate sentence review board created under chapter 9.95 RCW.

(2) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department, means that the department, either directly or through a collection agreement authorized by RCW 9.94A.760, is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(3) "Commission" means the sentencing guidelines commission.

(4) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(5) "Community custody" means that portion of an offender's sentence of confinement in lieu of earned release time or imposed as part of a sentence under this chapter and served in the community subject to controls placed on the offender's movement and activities by the department.

(6) "Community protection zone" means the area within ~~((eight hundred eighty))~~ 880 feet of the facilities and grounds of a public or private school.

(7) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(8) "Confinement" means total or partial confinement.

(9) "Conviction" means an adjudication of guilt pursuant to Title 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(10) "Crime-related prohibition" means an order of a court prohibiting conduct

that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct. However, affirmative acts necessary to monitor compliance with the order of a court may be required by the department.

(11) "Criminal history" means the list of a defendant's prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere, and any issued certificates of restoration of opportunity pursuant to RCW 9.97.020.

(a) The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) A conviction may be removed from a defendant's criminal history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or a similar out-of-state statute, or if the conviction has been vacated pursuant to a governor's pardon. However, when a defendant is charged with a recidivist offense, "criminal history" includes a vacated prior conviction for the sole purpose of establishing that such vacated prior conviction constitutes an element of the present recidivist offense as provided in RCW 9.94A.640(4)(b) and 9.96.060(7)(c).

(c) The determination of a defendant's criminal history is distinct from the determination of an offender score. A prior conviction that was not included in an offender score calculated pursuant to a former version of the sentencing reform act remains part of the defendant's criminal history.

(12) "Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having a common name or common identifying sign or symbol, having as one of its primary activities the commission of criminal acts, and whose members or associates individually or collectively engage in or have engaged in a pattern of criminal street gang activity. This definition does not apply to employees engaged in concerted activities for their mutual aid and protection, or to the activities of labor

and bona fide nonprofit organizations or their members or agents.

(13) "Criminal street gang associate or member" means any person who actively participates in any criminal street gang and who intentionally promotes, furthers, or assists in any criminal act by the criminal street gang.

(14) "Criminal street gang-related offense" means any felony or misdemeanor offense, whether in this state or elsewhere, that is committed for the benefit of, at the direction of, or in association with any criminal street gang, or is committed with the intent to promote, further, or assist in any criminal conduct by the gang, or is committed for one or more of the following reasons:

(a) To gain admission, prestige, or promotion within the gang;

(b) To increase or maintain the gang's size, membership, prestige, dominance, or control in any geographical area;

(c) To exact revenge or retribution for the gang or any member of the gang;

(d) To obstruct justice, or intimidate or eliminate any witness against the gang or any member of the gang;

(e) To directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage for the gang, its reputation, influence, or membership; or

(f) To provide the gang with any advantage in, or any control or dominance over any criminal market sector, including, but not limited to, manufacturing, delivering, or selling any controlled substance (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter 9.68 RCW).

(15) "Day fine" means a fine imposed by the sentencing court that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

(16) "Day reporting" means a program of enhanced supervision designed to

monitor the offender's daily activities and compliance with sentence conditions, and in which the offender is required to report daily to a specific location designated by the department or the sentencing court.

(17) "Department" means the department of corrections.

(18) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community custody, the number of actual hours or days of community restitution work, or dollars or terms of a legal financial obligation. The fact that an offender through earned release can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(19) "Disposable earnings" means that part of the earnings of an offender remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(20)(a) "Domestic violence" has the same meaning as defined in RCW 10.99.020.

(b) "Domestic violence" also means: (i) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault, sexual assault, or stalking, as defined in RCW 9A.46.110, of one intimate partner by another intimate partner as defined in RCW 10.99.020; or (ii) physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault, sexual assault, or stalking, as defined in RCW 9A.46.110, of one family or household member by another family or household member as defined in RCW 10.99.020.

(21) "Drug offender sentencing alternative" is a sentencing option available to persons convicted of a felony offense who are eligible for the option under RCW 9.94A.660.

(22) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.4013) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(23) "Earned release" means earned release from confinement as provided in RCW 9.94A.728.

(24) "Electronic monitoring" means tracking the location of an individual through the use of technology that is capable of determining or identifying the monitored individual's presence or absence at a particular location including, but not limited to:

(a) Radio frequency signaling technology, which detects if the monitored individual is or is not at an approved location and notifies the monitoring agency of the time that the monitored individual either leaves the approved location or tampers with or removes the monitoring device; or

(b) Active or passive global positioning system technology, which detects the location of the monitored individual and notifies the monitoring agency of the monitored individual's location and which may also include electronic monitoring with victim notification technology that is capable of notifying a victim or protected party, either directly or through a monitoring agency, if the monitored individual enters within the restricted distance of a victim or protected party, or within the restricted distance of a designated location.

(25) "Escape" means:

(a) Sexually violent predator escape (RCW 9A.76.115), escape in the first degree (RCW 9A.76.110), escape in the

second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(26) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-run injury-accident (RCW 46.52.020(4)), felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(27) "Fine" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specific period of time.

(28) "First-time offender" means any person who has no prior convictions for a felony and is eligible for the first-time offender waiver under RCW 9.94A.650.

(29) "Home detention" is a subset of electronic monitoring and means a program of partial confinement available to offenders wherein the offender is confined in a private residence (~~twenty-four~~) 24 hours a day, unless an absence from the residence is approved, authorized, or otherwise permitted in the order by the court or other supervising agency that ordered home detention, and the offender is subject to electronic monitoring.

(30) "Homelessness" or "homeless" means a condition where an individual lacks a fixed, regular, and adequate nighttime residence and who has a primary nighttime residence that is:

(a) A supervised, publicly or privately operated shelter designed to provide temporary living accommodations;

(b) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; or

(c) A private residence where the individual stays as a transient invitee.

(31) "Legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to RCW 38.52.430.

(32) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age (~~fourteen~~) 14;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Sexual exploitation;

(p) 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;

(q) 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;

(r) Any other class B felony offense with a finding of sexual motivation;

(s) Any other felony with a deadly weapon verdict under RCW 9.94A.825;

(t) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection;

(u)(i) A prior conviction for indecent liberties under RCW 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

(ii) A prior conviction for indecent liberties under RCW 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988, if: (A) The crime was committed against a child under the age of (~~fourteen~~) 14; or (B) the relationship between the victim and perpetrator is included in the definition of indecent liberties under RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993, through July 27, 1997;

(v) Any out-of-state conviction for a felony offense with a finding of sexual motivation if the minimum sentence imposed was (~~ten~~) 10 years or more; provided that the out-of-state felony offense must be comparable to a felony

offense under this title and Title 9A RCW and the out-of-state definition of sexual motivation must be comparable to the definition of sexual motivation contained in this section.

(33) "Nonviolent offense" means an offense which is not a violent offense.

(34) "Offender" means a person who has committed a felony established by state law and is ~~((eighteen))~~ 18 years of age or older or is less than ~~((eighteen))~~ 18 years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. In addition, for the purpose of community custody requirements under this chapter, "offender" also means a misdemeanor or gross misdemeanor probationer ordered by a superior court to probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and supervised by the department pursuant to RCW 9.94A.501 and 9.94A.5011. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

(35) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention, electronic monitoring, or work crew has been ordered by the court or home detention has been ordered by the department as part of the parenting program or the graduated reentry program, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, electronic monitoring, and a combination of work crew, electronic monitoring, and home detention.

(36) "Pattern of criminal street gang activity" means:

(a) The commission, attempt, conspiracy, or solicitation of, or any prior juvenile adjudication of or adult conviction of, two or more of the following criminal street gang-related offenses:

(i) Any "serious violent" felony offense as defined in this section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a Child 1 (RCW 9A.36.120);

(ii) Any "violent" offense as defined by this section, excluding Assault of a Child 2 (RCW 9A.36.130);

(iii) Deliver or Possession with Intent to Deliver a Controlled Substance (chapter 69.50 RCW);

(iv) Any violation of the firearms and dangerous weapon act (chapter 9.41 RCW);

(v) Theft of a Firearm (RCW 9A.56.300);

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

(vii) Hate Crime (RCW 9A.36.080);

(viii) Harassment where a subsequent violation or deadly threat is made (RCW 9A.46.020(2)(b));

(ix) Criminal Gang Intimidation (RCW 9A.46.120);

(x) Any felony conviction by a person ~~((eighteen))~~ 18 years of age or older with a special finding of involving a juvenile in a felony offense under RCW 9.94A.833;

(xi) Residential Burglary (RCW 9A.52.025);

(xii) Burglary 2 (RCW 9A.52.030);

(xiii) Malicious Mischief 1 (RCW 9A.48.070);

(xiv) Malicious Mischief 2 (RCW 9A.48.080);

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

(xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);

(xvii) Taking a Motor Vehicle Without Permission 1 (RCW 9A.56.070);

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

(xix) Extortion 1 (RCW 9A.56.120);

(xx) Extortion 2 (RCW 9A.56.130);

(xxi) Intimidating a Witness (RCW 9A.72.110);

(xxii) Tampering with a Witness (RCW 9A.72.120);

(xxiii) Reckless Endangerment (RCW 9A.36.050);

(xxiv) Coercion (RCW 9A.36.070);

(xxv) Harassment (RCW 9A.46.020); or

(xxvi) Malicious Mischief 3 (RCW 9A.48.090);

(b) That at least one of the offenses listed in (a) of this subsection shall have occurred after July 1, 2008;

(c) That the most recent committed offense listed in (a) of this subsection occurred within three years of a prior offense listed in (a) of this subsection; and

(d) Of the offenses that were committed in (a) of this subsection, the offenses occurred on separate occasions or were committed by two or more persons.

(37) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.525; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, assault of a child in the second degree, or burglary in the first degree; or (C) an attempt to commit any crime listed in this subsection (37)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection or any federal or out-

of-state offense or offense under prior Washington law that is comparable to the offenses listed in (b)(i) of this subsection. A conviction for rape of a child in the first degree constitutes a conviction under (b)(i) of this subsection only when the offender was (~~sixteen~~) 16 years of age or older when the offender committed the offense. A conviction for rape of a child in the second degree constitutes a conviction under (b)(i) of this subsection only when the offender was (~~eighteen~~) 18 years of age or older when the offender committed the offense.

(38) "Predatory" means: (a) The perpetrator of the crime was a stranger to the victim, as defined in this section; (b) the perpetrator established or promoted a relationship with the victim prior to the offense and the victimization of the victim was a significant reason the perpetrator established or promoted the relationship; or (c) the perpetrator was: (i) A teacher, counselor, volunteer, or other person in authority in any public or private school and the victim was a student of the school under his or her authority or supervision. For purposes of this subsection, "school" does not include home-based instruction as defined in RCW 28A.225.010; (ii) a coach, trainer, volunteer, or other person in authority in any recreational activity and the victim was a participant in the activity under his or her authority or supervision; (iii) a pastor, elder, volunteer, or other person in authority in any church or religious organization, and the victim was a member or participant of the organization under his or her authority; or (iv) a teacher, counselor, volunteer, or other person in authority providing home-based instruction and the victim was a student receiving home-based instruction while under his or her authority or supervision. For purposes of this subsection: (A) "Home-based instruction" has the same meaning as defined in RCW 28A.225.010; and (B) "teacher, counselor, volunteer, or other person in authority" does not include the parent or legal guardian of the victim.

(39) "Private school" means a school regulated under chapter 28A.195 or 28A.205 RCW.

(40) "Public school" has the same meaning as in RCW 28A.150.010.

(41) "Recidivist offense" means a felony offense where a prior conviction of the same offense or other specified offense is an element of the crime including, but not limited to:

(a) Assault in the fourth degree where domestic violence is pleaded and proven, RCW 9A.36.041(3);

(b) ~~((Cyberstalking))~~ Cyber harassment, RCW 9.61.260 ~~((3)(a))~~ (2)(b)(i) (as recodified by this act);

(c) Harassment, RCW 9A.46.020(2)(b)(i);

(d) Indecent exposure, RCW 9A.88.010(2)(c);

(e) Stalking, RCW 9A.46.110(5)(b)(i) and (iii);

(f) Telephone harassment, RCW 9.61.230(2)(a); and

(g) Violation of a no-contact or protection order, RCW 7.105.450 or former RCW 26.50.110(5).

(42) "Repetitive domestic violence offense" means any:

(a)(i) Domestic violence assault that is not a felony offense under RCW 9A.36.041;

(ii) Domestic violence violation of a no-contact order under chapter 10.99 RCW that is not a felony offense;

(iii) Domestic violence violation of a protection order under chapter 26.09, 26.26A, or 26.26B RCW or former chapter 26.50 RCW, or violation of a domestic violence protection order under chapter 7.105 RCW, that is not a felony offense;

(iv) Domestic violence harassment offense under RCW 9A.46.020 that is not a felony offense; or

(v) Domestic violence stalking offense under RCW 9A.46.110 that is not a felony offense; or

(b) Any federal, out-of-state, tribal court, military, county, or municipal conviction for an offense that under the laws of this state would be classified as a repetitive domestic violence offense under (a) of this subsection.

(43) "Restitution" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specified period of time as payment of damages. The sum may include both public and private costs.

(44) "Risk assessment" means the application of the risk instrument recommended to the department by the Washington state institute for public policy as having the highest degree of predictive accuracy for assessing an offender's risk of reoffense.

(45) "Serious traffic offense" means:

(a) Nonfelony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), nonfelony actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

(46) "Serious violent offense" is a subcategory of violent offense and means:

(a)(i) Murder in the first degree;

(ii) Homicide by abuse;

(iii) Murder in the second degree;

(iv) Manslaughter in the first degree;

(v) Assault in the first degree;

(vi) Kidnapping in the first degree;

(vii) Rape in the first degree;

(viii) Assault of a child in the first degree; or

(ix) An attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

(47) "Sex offense" means:

(a)(i) A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.132;

(ii) A violation of RCW 9A.64.020;

(iii) A felony that is a violation of chapter 9.68A RCW other than RCW 9.68A.080;

(iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes; or

(v) A felony violation of RCW 9A.44.132(1) (failure to register as a sex offender) if the person has been convicted of violating RCW 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130 prior to June 10, 2010, on at least one prior occasion;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a sex offense in (a) of this subsection;

(c) A felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135; or

(d) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

(48) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

(49) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(50) "Statutory maximum sentence" means the maximum length of time for which an offender may be confined as punishment for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the crime, or other statute defining the maximum penalty for a crime.

(51) "Stranger" means that the victim did not know the offender (~~(twenty-four)~~) 24 hours before the offense.

(52) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for (~~(twenty-four)~~) 24 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

(53) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

(54) "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.

(55) "Victim of domestic violence" means an intimate partner or household member who has been subjected to the infliction of physical harm or sexual and psychological abuse by an intimate partner or household member as part of a pattern of assaultive, coercive, and controlling behaviors directed at achieving compliance from or control over that intimate partner or household member. Domestic violence includes, but is not limited to, the offenses listed in RCW 10.99.020 and 26.50.010 committed by an intimate partner or household member against a victim who is an intimate partner or household member.

(56) "Victim of sex trafficking, prostitution, or commercial sexual abuse of a minor" means a person who has been forced or coerced to perform a commercial sex act including, but not limited to, being a victim of offenses defined in RCW 9A.40.100, 9A.88.070, 9.68A.101, and the trafficking victims protection act of 2000, 22 U.S.C. Sec. 7101 et seq.; or a person who was induced to perform a commercial sex act when they were less than 18 years of age including but not limited to the offenses defined in chapter 9.68A RCW.

(57) "Victim of sexual assault" means any person who is a victim of a sexual assault offense, nonconsensual sexual conduct, or nonconsensual sexual penetration and as a result suffers physical, emotional, financial, or psychological impacts. Sexual assault offenses include, but are not limited to, the offenses defined in chapter 9A.44 RCW.

(58) "Violent offense" means:

(a) Any of the following felonies:

(i) Any felony defined under any law as a class A felony or an attempt to commit a class A felony;

(ii) Criminal solicitation of or criminal conspiracy to commit a class A felony;

(iii) Manslaughter in the first degree;

(iv) Manslaughter in the second degree;

(v) Indecent liberties if committed by forcible compulsion;

(vi) Kidnapping in the second degree;

(vii) Arson in the second degree;

(viii) Assault in the second degree;

(ix) Assault of a child in the second degree;

(x) Extortion in the first degree;

(xi) Robbery in the second degree;

(xii) Drive-by shooting;

(xiii) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner; and

(xiv) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

(59) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community that complies with RCW 9.94A.725.

(60) "Work ethic camp" means an alternative incarceration program as provided in RCW 9.94A.690 designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

(61) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school.

Sec. 12. RCW 9.94A.515 and 2020 c 344 s 4 are each amended to read as follows:

TABLE 2

	CRIMES WITHIN SERIOUSNESS LEVEL	INCLUDED EACH
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))
- 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)
- 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))

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))

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 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)	IV	Arson 2 (RCW 9A.48.030)
Extortion 1 (RCW 9A.56.120)		Assault 2 (RCW 9A.36.021)
Extortionate Extension of Credit (RCW 9A.82.020)		Assault 3 (of a Peace Officer with a Projectile Stun Gun) (RCW 9A.36.031(1)(h))
Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)		Assault 4 (third domestic violence offense) (RCW 9A.36.041(3))
Incest 2 (RCW 9A.64.020(2))		Assault by Watercraft (RCW 79A.60.060)
Kidnapping 2 (RCW 9A.40.030)		Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
Manufacture or import counterfeit, nonfunctional, damaged, or previously deployed air bag (RCW 46.37.650(1)(c))		Cheating 1 (RCW 9A.46.1961)
Perjury 1 (RCW 9A.72.020)		Commercial Bribery (RCW 9A.68.060)
Persistent prison misbehavior (RCW 9A.94.070)		Counterfeiting (RCW 9.16.035(4))
Possession of a Stolen Firearm (RCW 9A.56.310)		Driving While Under the Influence (RCW 46.61.502(6))
Rape 3 (RCW 9A.44.060)		Endangerment with a Controlled Substance (RCW 9A.42.100)
Rendering Criminal Assistance 1 (RCW 9A.76.070)		Escape 1 (RCW 9A.76.110)
Sell, install, or reinstall counterfeit, nonfunctional, damaged, or previously deployed airbag (RCW 46.37.650(2)(c))		Hate Crime (RCW 9A.36.080)
Sending, Bringing into State Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.060(2))		Hit and Run—Injury (RCW 46.52.020(4)(b))
Sexual Misconduct with a Minor 1 (RCW 9A.44.093)		Hit and Run with Vessel— Injury Accident (RCW 79A.60.200(3))
Sexually Violating Human Remains (RCW 9A.44.105)		Identity Theft 1 (RCW 9.35.020(2))
Stalking (RCW 9A.46.110)		Indecent Exposure to Person Under Age (Fourteen) <u>14</u> (subsequent sex offense) (RCW 9A.88.010)
Taking Motor Vehicle Without Permission 1 (RCW 9A.56.070)		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))

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)

~~(Cyberstalking (subsequent conviction or threat of death))~~
Cyber Harassment (RCW 9.61.260 ~~((3))~~ (2)(b) (as recodified by this act))

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)

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
Nondesigned 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)

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 (~~five~~

~~thousand dollars~~) \$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)

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 ~~((seven hundred fifty dollars))~~ \$750 or more but less than ~~((five thousand dollars))~~ \$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)

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. 13. RCW 9.94A.515 and 2021 c 215 s 99 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)		Sexually Violent Predator Escape (RCW 9A.76.115)
	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))		
	Malicious explosion 3 (RCW 70.74.280(3))		
		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)

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))

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))

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, 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))

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 (~~Fourteen~~) 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))

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)

((~~Cyberstalking (subsequent
conviction or threat of death)~~))
Cyber Harassment (RCW
9.61.260 (~~(3)~~)) (2)(b) (as
recodified by this act)

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)

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 Nondesigned 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)
- 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 (~~five thousand dollars~~) \$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)
- 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 ~~((seven hundred fifty dollars))~~ \$750 or more but less than ~~((five thousand dollars))~~ \$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)
- 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. 14. RCW 9A.46.060 and 2019 c 271 s 8 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) ~~((Cyberstalking))~~ Cyber harassment (RCW 9.61.260 (as recodified by this act));
- (35) Residential burglary (RCW 9A.52.025);
- (36) Violation of a temporary, permanent, or final protective order issued pursuant to chapter 7.90, 9A.46, 10.14, 10.99, 26.09, or 26.50 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).

Sec. 15. RCW 9A.46.060 and 2021 c 215 s 109 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) (~~Cyberstalking~~) Cyber harassment (RCW 9.61.260 (as recodified by this act));

(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).

Sec. 16. RCW 26.50.060 and 2020 c 311 s 9 are each amended to read as follows:

(1) Upon notice and after hearing, the court may provide relief as follows:

(a) Restrain the respondent from committing acts of domestic violence;

(b) Exclude the respondent from the dwelling that the parties share, from the residence, workplace, or school of the petitioner, or from the day care or school of a child;

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

(d) On the same basis as is provided in chapter 26.09 RCW, the court shall make residential provision with regard to minor children of the parties. However, parenting plans as specified in chapter 26.09 RCW shall not be required under this chapter;

(e) Order the respondent to participate in a domestic violence perpetrator treatment program approved under RCW 26.50.150;

(f) Order other relief as it deems necessary for the protection of the petitioner and other family or household members sought to be protected, including orders or directives to a peace officer, as allowed under this chapter;

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

when such fees are incurred by a person licensed and practicing in accordance with the state supreme court's admission to practice rule 28, the limited practice rule for limited license legal technicians;

(h) Restrain the respondent from having any contact with the victim of domestic violence or the victim's children or members of the victim's household;

(i) Restrain the respondent from harassing, following, keeping under physical or electronic surveillance, (~~cyberstalking~~) cyber harassment as defined in RCW 9.61.260 (as recodified by this act), and using telephonic, audiovisual, or other electronic means to monitor the actions, location, or communication of a victim of domestic violence, the victim's children, or members of the victim's household. For the purposes of this subsection, "communication" includes both "wire communication" and "electronic communication" as defined in RCW 9.73.260;

(j) Require the respondent to submit to electronic monitoring. The order shall specify who shall provide the electronic monitoring services and the terms under which the monitoring must be performed. The order also may include a requirement that the respondent pay the costs of the monitoring. The court shall consider the ability of the respondent to pay for electronic monitoring;

(k) Consider the provisions of RCW 9.41.800;

(l) Order possession and use of essential personal effects. The court shall list the essential personal effects with sufficient specificity to make it clear which property is included. Personal effects may include pets. The court may order that a petitioner be granted the exclusive custody or control of any pet owned, possessed, leased, kept, or held by the petitioner, respondent, or minor child residing with either the petitioner or respondent and may prohibit the respondent from interfering with the petitioner's efforts to remove the pet. The court may also prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified distance of specified locations where the pet is regularly found;

(m) Order use of a vehicle; and

(n) Enter an order restricting the respondent from engaging in abusive litigation as set forth in chapter 26.51 RCW. A petitioner may request this relief in the petition or by separate motion. A petitioner may request this relief by separate motion at any time within five years of the date the order for protection is entered even if the order has since expired. A stand-alone motion for an order restricting abusive litigation may be brought by a party who meets the requirements of chapter 26.51 RCW regardless of whether the party has previously sought an order for protection under this chapter, provided the motion is made within five years of the date the order that made a finding of domestic violence was entered. In cases where a finding of domestic violence was entered pursuant to an order under chapter 26.09, 26.26, or 26.26A RCW, a motion for an order restricting abusive litigation may be brought under the family law case or as a stand-alone action filed under this chapter, when it is not reasonable or practical to file under the family law case.

(2) If a protection order restrains the respondent from contacting the respondent's minor children the restraint shall be for a fixed period not to exceed one year. This limitation is not applicable to orders for protection issued under chapter 26.09, 26.10, 26.26A, or 26.26B RCW. With regard to other relief, if the petitioner has petitioned for relief on his or her own behalf or on behalf of the petitioner's family or household members or minor children, and the court finds that the respondent is likely to resume acts of domestic violence against the petitioner or the petitioner's family or household members or minor children when the order expires, the court may either grant relief for a fixed period or enter a permanent order of protection.

If the petitioner has petitioned for relief on behalf of the respondent's minor children, the court shall advise the petitioner that if the petitioner wants to continue protection for a period beyond one year the petitioner may either petition for renewal pursuant to the provisions of this chapter or may seek relief pursuant to the provisions of chapter 26.09, 26.26A, or 26.26B RCW.

(3) If the court grants an order for a fixed time period, the petitioner may apply for renewal of the order by filing

a petition for renewal at any time within the three months before the order expires. The petition for renewal shall state the reasons why the petitioner seeks to renew the protection order. Upon receipt of the petition for renewal the court shall order a hearing which shall be not later than (~~fourteen~~) 14 days from the date of the order. Except as provided in RCW 26.50.085, personal service shall be made on the respondent not less than five days before the hearing. If timely service cannot be made the court shall set a new hearing date and shall either require additional attempts at obtaining personal service or permit service by publication as provided in RCW 26.50.085 or by mail as provided in RCW 26.50.123. If the court permits service by publication or mail, the court shall set the new hearing date not later than (~~twenty-four~~) 24 days from the date of the order. If the order expires because timely service cannot be made the court shall grant an ex parte order of protection as provided in RCW 26.50.070. The court shall grant the petition for renewal unless the respondent proves by a preponderance of the evidence that the respondent will not resume acts of domestic violence against the petitioner or the petitioner's children or family or household members when the order expires. The court may renew the protection order for another fixed time period or may enter a permanent order as provided in this section. The court may award court costs, service fees, and reasonable attorneys' fees as provided in subsection (1)(g) of this section.

(4) In providing relief under this chapter, the court may realign the designation of the parties as "petitioner" and "respondent" where the court finds that the original petitioner is the abuser and the original respondent is the victim of domestic violence and may issue an ex parte temporary order for protection in accordance with RCW 26.50.070 on behalf of the victim until the victim is able to prepare a petition for an order for protection in accordance with RCW 26.50.030.

(5) Except as provided in subsection (4) of this section, no order for protection shall grant relief to any party except upon notice to the respondent and hearing pursuant to a petition or counter-petition filed and served by the party seeking relief in accordance with RCW 26.50.050.

(6) The court order shall specify the date the order expires if any. The court order shall also state whether the court issued the protection order following personal service, service by publication, or service by mail and whether the court has approved service by publication or mail of an order issued under this section.

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

Sec. 17. RCW 26.50.070 and 2019 c 245 s 14 are each amended to read as follows:

(1) Where an application under this section alleges that irreparable injury could result from domestic violence if an order is not issued immediately without prior notice to the respondent, the court may grant an ex parte temporary order for protection, pending a full hearing, and grant relief as the court deems proper, including an order:

(a) Restraining any party from committing acts of domestic violence;

(b) Restraining any party from going onto the grounds of or entering the dwelling that the parties share, from the residence, workplace, or school of the other, or from the day care or school of a child until further order of the court;

(c) Prohibiting any party from knowingly coming within, or knowingly remaining within, a specified distance from a specified location;

(d) Restraining any party from interfering with the other's custody of the minor children or from removing the children from the jurisdiction of the court;

(e) Restraining any party from having any contact with the victim of domestic violence or the victim's children or members of the victim's household; and

(f) Restraining the respondent from harassing, following, keeping under physical or electronic surveillance, (~~cyberstalking~~) cyber harassment as defined in RCW 9.61.260 (as recodified by this act), and using telephonic, audiovisual, or other electronic means to monitor the actions, location, or communication of a victim of domestic violence, the victim's children, or members of the victim's household. For

the purposes of this subsection, "communication" includes both "wire communication" and "electronic communication" as defined in RCW 9.73.260.

(2) In issuing the order, the court shall consider the provisions of RCW 9.41.800, and shall order the respondent to surrender, and prohibit the respondent from possessing, all firearms, dangerous weapons, and any concealed pistol license as required in RCW 9.41.800.

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

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

(5) An ex parte temporary order for protection shall be effective for a fixed period not to exceed (~~(fourteen)~~) 14 days or (~~(twenty-four)~~) 24 days if the court has permitted service by publication under RCW 26.50.085 or by mail under RCW 26.50.123. The ex parte temporary order may be reissued. A full hearing, as provided in this chapter, shall be set for not later than (~~(fourteen)~~) 14 days from the issuance of the ex parte temporary order or not later than (~~(twenty-four)~~) 24 days if service by publication or by mail is permitted. Except as provided in RCW 26.50.050, 26.50.085, and 26.50.123, the respondent shall be personally served with a copy of the ex parte temporary order along with a copy of the petition and notice of the date set for the hearing.

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

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

NEW SECTION. **Sec. 18.** Sections 7, 10, 12, 14, 16, and 17 of this act expire July 1, 2022.

NEW SECTION. **Sec. 19.** Sections 8, 9, 11, 13, and 15 of this act take effect July 1, 2022."

Correct the title.

Signed by Representatives Goodman, Chair; Johnson, J., Vice Chair; Mosbrucker, Ranking Minority Member; Davis; Griffey; Hackney; Orwall; Ramos; Simmons and Thai.

MINORITY recommendation: Without recommendation. Signed by Representatives Klippert, Assistant Ranking Minority Member and Graham.

Referred to Committee on Rules for second reading.

February 24, 2022

SB 5657 Prime Sponsor, Senator Wellman:
Concerning computer science instruction in state long-term juvenile institutions.
Reported by Committee on Education

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature recognizes the benefit of computer science and computational thinking in education, not only with respect to educational development, but also in cultivating the skills needed to compete and excel in our state's career landscape. The legislature also recognizes the heightened importance of providing access to computer science education to youth in secure facilities, where access to innovative and engaging learning experiences can: (1) Build in-demand skills to prepare students for future employment; (2) help students transition back to their communities following incarceration; and (3) prevent recidivism. However, the legislature understands that state long-term juvenile institutions have unique environmental and facility limitations that affect the ability to deliver some components of computer science instruction in a secure manner. Therefore, the legislature intends to require school districts that operate institutional education programs in state long-term juvenile institutions to provide access to computer science courses, while allowing the flexibility

to adjust curriculum and instructional activities when necessary.

NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.190 RCW to read as follows:

(1) Subject to the availability and sufficiency of amounts appropriated for this specific purpose in addition to the amounts appropriated through the institutional education funding formulas specified in the omnibus appropriations act, and subject to staffing availability, each school district operating an institutional education program for youth in state long-term juvenile institutions must provide an opportunity to access an elective computer science course in accordance with RCW 28A.230.300(1).

(2) If, due to facility or technology security limitations, a school district cannot provide a computer science course that is fully aligned with all state computer science learning standards, the school district must adapt the course curriculum and instructional activities to align with as many state computer science learning standards as possible.

(3) Each school district operating an institutional education program for youth in state long-term juvenile institutions must annually report the following information to the office of the superintendent of public instruction:

(a) Data indicating the number of students who enrolled in a computer science course in the prior school year, disaggregated by gender, race, ethnicity, and age;

(b) A brief description of each computer science course and whether the course is fully aligned to state computer science learning standards; and

(c) A brief description of any facility or technology security limitations that prevent the school district from offering a course fully aligned with state computer science learning standards, and the actions the district is taking to address those limitations.

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, 2022, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Santos, Chair; Dolan, Vice Chair; Ybarra, Ranking Minority Member; Berg; Bergquist; Callan; McEntire; Ortiz-Self; Rude; Steele and Stonier.

MINORITY recommendation: Without recommendation. Signed by Representatives Walsh, Assistant Ranking Minority Member and McCaslin.

Referred to Committee on Appropriations.

February 24, 2022

E2SSB 5662 Prime Sponsor, Committee on Ways & Means: Concerning intergovernmental coordination to address transitioning persons encamped on state public rights-of-way to permanent housing solutions. Reported by Committee on Housing, Human Services & Veterans

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) Persons experiencing homelessness shall be treated with dignity, care, and compassion.

(2) Local jurisdictions and providers must engage persons experiencing homelessness with teams of multidisciplinary experts focused on trauma-informed care and provision of services with the goal of transitioning persons experiencing homelessness into permanent housing solutions. Nothing in this section allows state or local governments to impose penalties for sitting, sleeping, or lying outside on public property for homeless individuals who are unable to obtain shelter. Every effort must be made to avoid furthering existing trauma to persons experiencing homelessness by causing displacement that does not result in a transition to permanent housing.

(3) All memoranda of agreement between state agencies and local government must be consistent with this section.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.20A RCW to read as follows:

(1) The office of intergovernmental coordination on public right-of-way homeless encampments is created within the department. For purposes of this

section, "public rights-of-way" means any right-of-way under the authority and control of the state department of transportation.

(2) Activities of the office must be carried out by a director and supervised by the secretary of the department or his or her designee.

(3) The office must lead efforts under this section to coordinate the spectrum of ongoing and future funding, policy, and practice efforts related to persons encamped on the rights-of-way to identify more permanent housing solutions and appropriate services in a manner that treats persons with respect, compassion, and dignity, through coordinated state, local, and community partnerships. Recognizing and accommodating partners, families, and pets is a critical component of shelter and housing solutions. Shelter or housing plans should be complete before engaging persons encamped on the public rights-of-way.

NEW SECTION. **Sec. 3.** A new section is added to chapter 43.131 RCW to read as follows:

The office of intergovernmental coordination on public right-of-way homeless encampments is terminated July 1, 2027, as provided in section 4 of this act.

NEW SECTION. **Sec. 4.** A new section is added to chapter 43.131 RCW to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective July 1, 2028:

- (1) Section 1 of this act; and
- (2) Section 2 of this act."

Correct the title.

Signed by Representatives Peterson, Chair; Taylor, Vice Chair; Bateman; Chopp and Donaghy.

MINORITY recommendation: Without recommendation. Signed by Representatives Barkis, Assistant Ranking Minority Member; Jacobsen and Leavitt.

MINORITY recommendation: Do not pass. Signed by Representative Gilday, Ranking Minority Member.

Referred to Committee on Appropriations.

February 24, 2022

SSB 5678 Prime Sponsor, Committee on Environment, Energy & Technology: Concerning energy transformation, nonemitting electric generation, and renewable resource project analysis and declaratory orders. Reported by Committee on Environment & Energy

MAJORITY recommendation: Do pass. Signed by Representatives Fitzgibbon, Chair; Duerr, Vice Chair; Dye, Ranking Minority Member; Klicker, Assistant Ranking Minority Member; Abbarno; Berry; Boehnke; Fey; Goehner; Harris-Talley; Ramel; Shewmake and Slatter.

Referred to Committee on Rules for second reading.

February 24, 2022

2SSB 5703 Prime Sponsor, Committee on Ways & Means: Concerning the use of toxic chemicals in cosmetic products. Reported by Committee on Environment & Energy

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature finds that certain chemicals used in cosmetic products are linked to harmful impacts on health, such as cancer, birth defects, damage to the reproductive system, organ system toxicity, and endocrine disruption. Many of these chemicals have been identified by the state of Washington as high priority chemicals of concern.

(2) In order to ensure the safety of cosmetic products and protect Washington citizens from toxic exposures, the legislature intends to prohibit use of toxic chemicals found in cosmetic and personal care products and join other jurisdictions in creating a safer global standard for cosmetic products and bringing more sustainable, safer ingredients to the marketplace.

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

(1) "Cosmetic product" has the same meaning as the term "cosmetic" as defined in RCW 69.04.011.

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

(3) "Manufacturer" has the same meaning as defined in RCW 70A.350.010.

(4) "Ortho-phthalates" means esters of ortho-phthalic acid.

(5) "Perfluoroalkyl and polyfluoroalkyl substances" has the same meaning as defined in RCW 70A.350.010.

(6) "Vulnerable populations" has the same meaning as defined in RCW 70A.02.010.

NEW SECTION. Sec. 3. (1) Except as provided in subsection (3) of this section, beginning January 1, 2025, no person may manufacture, knowingly sell, offer for sale, distribute for sale, or distribute for use in this state any cosmetic product that contains any of the following intentionally added chemicals or chemical classes:

(a) Ortho-phthalates;

(b) Perfluoroalkyl and polyfluoroalkyl substances;

(c) Formaldehyde (CAS 50-00-0) and chemicals determined by the department to release formaldehyde;

(d) Methylene glycol (CAS 463-57-0);

(e) Mercury and mercury compounds (CAS 7439-97-6);

(f) Triclosan (CAS 3380-34-5);

(g) m-phenylenediamine and its salts (CAS 108-45-2); and

(h) o-phenylenediamine and its salts (CAS 95-54-5).

(2) Except as provided in subsection (3) of this section, beginning January 1, 2025, no person may manufacture, knowingly sell, offer for sale, distribute for sale, or distribute for use in this state any cosmetic product that contains lead or lead compounds (CAS 7439-92-1) at ten parts per million (ppm) or above, or as otherwise determined by the department through rule making.

(3) An in-state retailer in possession of cosmetic products on the date that restrictions on the sale of the products takes effect under this section may exhaust its existing stock through sales to the public until January 1, 2026.

(4)(a) By December 1, 2022, the department in consultation with the department of health must create and adopt by rule a community engagement plan to:

(i)(A) Test cosmetic products marketed, including through internet retailers, to women of color; and

(B) Identify potentially harmful chemicals or chemical classes contained in or added to the products identified in (a)(i)(A) of this subsection;

(ii) Seek information through outreach regarding the use of cosmetic products, prioritizing engagement with vulnerable populations;

(iii) Provide culturally appropriate education concerning identified chemicals or chemical classes contained in or added to cultural and other cosmetic products, prioritizing engagement with vulnerable populations; and

(iv) Support efforts to:

(A) Identify priority chemicals and priority products for the department to evaluate in accordance with chapter 70A.350 RCW; and

(B) Determine whether additional regulation is needed to address chemicals or chemical classes contained in or added to cosmetic products.

(b) The plan must include methods for outreach and communication with those who face barriers to participation, such as language or otherwise.

(5) For the purposes of this section, cosmetic products do not include prescription drugs approved by the United States food and drug administration.

(6) Hydrofluoroolefins used as aerosol propellants are not subject to the restrictions established in this section.

NEW SECTION. Sec. 4. (1) The department may adopt rules as necessary for the purpose of implementing, administering, and enforcing this chapter.

(2) A manufacturer violating a requirement of this chapter, a rule adopted under this chapter, or an order issued under this chapter, is subject to a civil penalty not to exceed \$5,000 for each violation in the case of a first offense. Manufacturers who are repeat violators are subject to a civil penalty not to exceed \$10,000 for each repeat offense.

(3) Any penalty provided for in this section, and any order issued by the

department under this chapter, may be appealed to the pollution control hearings board.

(4) All penalties collected under this chapter shall be deposited in the model toxics control operating account created in RCW 70A.305.180.

Sec. 5. RCW 43.21B.110 and 2021 c 316 s 41 and 2021 c 313 s 16 are each reenacted and amended to read as follows:

(1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, local conservation districts, the air pollution control boards or authorities as established pursuant to chapter 70A.15 RCW, local health departments, the department of natural resources, the department of fish and wildlife, the parks and recreation commission, and authorized public entities described in chapter 79.100 RCW:

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070, 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080, 70A.65.200, section 3 of this act, 76.09.170, 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070, 70A.245.020, 70A.65.200, section 3 of this act, 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

(c) Except as provided in RCW 90.03.210(2), the issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, the modification of the conditions or the terms of a waste disposal permit, or a decision to approve or deny an application for a solid waste permit exemption under RCW 70A.205.260.

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

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

(f) Decisions of the department regarding waste-derived fertilizer or micronutrient fertilizer under RCW 15.54.820, and decisions of the department regarding waste-derived soil amendments under RCW 70A.205.145.

(g) Decisions of local conservation districts related to the denial of approval or denial of certification of a dairy nutrient management plan; conditions contained in a plan; application of any dairy nutrient management practices, standards, methods, and technologies to a particular dairy farm; and failure to adhere to the plan review and approval timelines in RCW 90.64.026.

(h) Any other decision by the department or an air authority which pursuant to law must be decided as an adjudicative proceeding under chapter 34.05 RCW.

(i) Decisions of the department of natural resources, the department of fish and wildlife, and the department that are reviewable under chapter 76.09 RCW, and the department of natural resources' appeals of county, city, or town objections under RCW 76.09.050(7).

(j) Forest health hazard orders issued by the commissioner of public lands under RCW 76.06.180.

(k) Decisions of the department of fish and wildlife to issue, deny, condition, or modify a hydraulic project approval permit under chapter 77.55 RCW, to issue a stop work order, to issue a notice to comply, to issue a civil penalty, or to issue a notice of intent to disapprove applications.

(l) Decisions of the department of natural resources that are reviewable under RCW 78.44.270.

(m) Decisions of an authorized public entity under RCW 79.100.010 to take temporary possession or custody of a vessel or to contest the amount of reimbursement owed that are reviewable by the hearings board under RCW 79.100.120.

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

of covered products in plastic containers from minimum postconsumer recycled content requirements.

(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. 6. RCW 43.21B.300 and 2021 c 316 s 42 and 2021 c 313 s 17 are each reenacted and amended to read as follows:

(1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160, 70A.205.280, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080, 70A.65.200, section 3 of this act, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102 and chapter 70A.355 RCW shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the penalty from the department or the local air authority, describing the violation with reasonable particularity. For penalties issued by local air authorities, within thirty 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 thirty days after the date of receipt by the person penalized of the notice imposing the penalty or thirty 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 thirty 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 thirty days after it becomes due and payable, the authority may bring an action to recover the penalty in the superior court of the county of the authority's main office or of any county in which the violator does business. In these actions, the procedures and rules of evidence shall be the same as in an ordinary civil action.

(5) All penalties recovered shall be paid into the state treasury and credited to the general fund except those penalties imposed pursuant to RCW 18.104.155, which shall be credited to the reclamation account as provided in RCW 18.104.155(7), RCW 70A.15.3160, the disposition of which shall be governed by that provision, RCW 70A.245.040 and 70A.245.050, which shall be credited to the recycling enhancement account created in RCW 70A.245.100, RCW 70A.300.090 and section 3 of this act, which shall be credited to the model

toxics control operating account created in RCW 70A.305.180, RCW 70A.65.200, which shall be credited to the climate investment account created in RCW 70A.65.250, RCW 90.56.330, which shall be credited to the coastal protection fund created by RCW 90.48.390, and RCW 70A.355.070, which shall be credited to the underground storage tank account created by RCW 70A.355.090.

NEW SECTION. **Sec. 7.** This chapter may be known and cited as the toxic-free cosmetics act.

NEW SECTION. **Sec. 8.** Sections 1 through 4 and 7 of this act constitute a new chapter in Title 70A RCW."

Correct the title.

Signed by Representatives Fitzgibbon, Chair; Duerr, Vice Chair; Abbarno; Berry; Boehnke; Fey; Harris-Talley; Ramel; Shewmake and Slatter.

MINORITY recommendation: Without recommendation. Signed by Representatives Dye, Ranking Minority Member; Klicker, Assistant Ranking Minority Member and Goehner.

Referred to Committee on Appropriations.

February 24, 2022

2SSB 5720 Prime Sponsor, Committee on Ways & Means: Providing student financial literacy education. Reported by Committee on Education

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 28A.300 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the financial education public-private partnership shall establish a grant program to provide assistance to school districts for the purpose of integrating financial literacy education into professional development for certificated staff.

(2) Grants provided under this section shall be made available for the 2023-24, 2024-25, and 2025-26 school years, and shall be funded at the amount of \$7.50 per enrolled student in the school district, as determined by the annual average full-time equivalent student

enrollment reported to the office of the superintendent of public instruction. A school district that receives a grant under this section may only receive a grant for one school year and is prohibited from receiving a grant in subsequent grant cycles.

(3) For a school district to qualify for a grant under this section, the grant proposal must provide that the grantee integrate financial literacy education into at least seven hours of its current in-person professional development schedule over the course of the entire school year for which the school district receives the grant.

(4) Additional activities permitted for the use of these grants include, but are not limited to:

(a) Coordinating teachers from across a school district to develop new instructional strategies and to share successful strategies;

(b) Sharing successful practices across a group of school districts; and

(c) Facilitating coordination between educational service districts and school districts to provide training.

(5) The office of the superintendent of public instruction, in coordination with the financial education public-private partnership, may adopt rules for the effective implementation of this section.

(6) This section expires August 1, 2026.

Sec. 2. RCW 28A.300.460 and 2015 c 211 s 2 are each amended to read as follows:

(1) The task of the financial education public-private partnership is to seek out and determine the best methods of equipping students with the knowledge and skills they need, before they become self-supporting, in order for them to make critical decisions regarding their personal finances. The components of personal financial education shall include the achievement of skills and knowledge necessary to make informed judgments and effective decisions regarding earning, spending, and the management of money and credit.

(2) In carrying out its task, and to the extent funds are available, the partnership shall:

(a) Communicate to school districts the financial education standards adopted under RCW 28A.300.462, other important financial education skills and content knowledge, and strategies for expanding the provision and increasing the quality of financial education instruction;

(b) Review on an ongoing basis financial education curriculum that is available to school districts, including instructional materials and programs, online instructional materials and resources, and school-wide programs that include the important financial skills and content knowledge;

(c) Develop evaluation standards and a procedure for endorsing financial education curriculum that the partnership determines should be recommended for use in school districts;

(d) Work with the office of the superintendent of public instruction to integrate financial education skills and content knowledge into the state learning standards;

(e) Monitor and provide guidance for professional development for educators regarding financial education, including ways that teachers at different grade levels may integrate financial skills and content knowledge into mathematics, social studies, and other course content areas;

(f) Work with the office of the superintendent of public instruction and the professional educator standards board to create professional development in financial education;

(g) Develop academic guidelines and standards-based protocols for use by classroom volunteers who participate in delivering financial education to students in the public schools; ~~(and)~~

(h) Provide an annual report beginning December 1, 2009, as provided in RCW 28A.300.464, to the governor, the superintendent of public instruction, and the committees of the legislature with oversight over K-12 education and higher education; and

(i) Administer grant programs including, but not limited to, the program established in section 1 of this act or related programs established in the omnibus operating appropriations act.

(3) In addition to the duties in subsection (2) of this section and subject to the availability of amounts appropriated for this specific purpose, the partnership may perform other tasks in support of financial literacy, including, but not limited to:

(a) Hiring support staff;

(b) Contracting with educational service districts;

(c) Facilitating the creation and implementation of professional development for certificated educational staff relating to financial literacy and education, in particular the professional development utilized as part of the grant program created in section 1 of this act;

(d) Working to facilitate, and confirm receipt of, specific outreach for financial literacy training to foster students and homeless youth, students receiving special education services, and tribal communities; and

(e) Coordinating with providers in the early childhood education and assistance program established under chapter 43.216 RCW for the purpose of providing a curriculum on financial literacy that can be shared with the parents or legal guardians of participants in the early childhood education and assistance program.

(4) The partnership may seek federal and private funds to support the school districts in providing access to the materials listed pursuant to RCW 28A.300.468(1), as well as related professional development opportunities for certificated staff.

NEW SECTION. Sec. 3. A new section is added to chapter 28A.300 RCW to read as follows:

(1) Each school district, by March 1, 2023, shall adopt one or more goals for expanding financial education instruction to students in their district. Examples of goals that school districts may adopt include:

(a) Increasing the number of financial education courses available to students in grades nine through 12;

(b) Increasing the number of grades, schools, or both that provide students with instruction in, or access to instruction in, financial education; and

(c) Expanding the amount financial education professional development training available to certificated staff.

(2) The financial education public-private partnership, by September 1, 2022, shall develop a nonexhaustive menu of model goals that school districts may consider when complying with this section. The model goals must be published on the website of the office of the superintendent of public instruction by September 10, 2022.

(3) Subsection (1) of 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 education compact schools established under chapter 28A.715 RCW to the same extent as it applies to school districts."

Correct the title.

Signed by Representatives Santos, Chair; Dolan, Vice Chair; Ybarra, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Berg; Bergquist; Callan; McCaslin; McEntire; Ortiz-Self; Rude; Steele and Stonier.

Referred to Committee on Appropriations.

February 24, 2022

SSB 5729 Prime Sponsor, Committee on Human Services, Reentry & Rehabilitation: Creating a good cause exception to administrative hearing deadlines for applicants or recipients of certain public assistance benefits. Reported by Committee on Housing, Human Services & Veterans

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 74.08.080 and 1998 c 79 s 15 are each amended to read as follows:

(1)(a) A public assistance applicant or recipient who is aggrieved by a decision of the department or an authorized agency of the department has the right to an adjudicative proceeding. A current or former recipient who is aggrieved by a department claim that he or she owes a debt for an overpayment of assistance or food stamps or food stamp benefits transferred electronically, or

both, has the right to an adjudicative proceeding.

(b) An applicant or recipient has no right to an adjudicative proceeding when the sole basis for the department's decision is a state or federal law that requires an assistance adjustment for a class of recipients.

(2) The adjudicative proceeding is governed by the Administrative Procedure Act, chapter 34.05 RCW, and this subsection.

(a) The applicant or recipient must file the application for an adjudicative proceeding with the secretary within ~~((ninety))~~ 90 days after receiving notice of the aggrieving decision unless good cause is shown, to the extent allowable under federal law.

(i) For the purpose of this subsection, good cause is defined as a substantive reason or legal justification for failing to meet a hearing deadline. Good cause to fail to meet a hearing deadline may include, but is not limited to: Military deployment, medical reasons, housing instability, language barriers, or domestic violence.

(ii) The department shall not grant a request for a hearing for good cause if the request is filed more than one year after the aggrieving decision.

(b) The hearing shall be conducted at the local community services office or other location in Washington convenient to the appellant.

(c) The appellant or his or her representative has the right to inspect his or her department file and, upon request, to receive copies of department documents relevant to the proceedings free of charge.

(d) The appellant has the right to a copy of the tape recording of the hearing free of charge.

(e) The department is limited to recovering an overpayment arising from assistance being continued pending the adjudicative proceeding to the amount recoverable up to the ~~((sixtieth))~~ 60th day after the secretary's receipt of the application for an adjudicative proceeding.

(f) If the final adjudicative order is made in favor of the appellant, assistance shall be paid from the date of denial of the application for assistance

or (~~(thirty)~~) 30 days following the date of application for temporary assistance for needy families or (~~(forty-five)~~) 45 days after date of application for all other programs, whichever is sooner; or in the case of a recipient, from the effective date of the local community services office decision.

(g) This subsection applies only to an adjudicative proceeding in which the appellant is an applicant for or recipient of medical assistance or the limited casualty program for the medically needy and the issue is his or her eligibility or ineligibility due to the assignment or transfer of a resource. The burden is on the department to prove by a preponderance of the evidence that the person knowingly and willingly assigned or transferred the resource at less than market value for the purpose of qualifying or continuing to qualify for medical assistance or the limited casualty program for the medically needy. If the prevailing party in the adjudicative proceeding is the applicant or recipient, he or she is entitled to reasonable attorney's fees.

(3) When a person files a petition for judicial review as provided in RCW 34.05.514 of an adjudicative order entered in a public assistance program, no filing fee shall be collected from the person and no bond shall be required on any appeal. In the event that the superior court, the court of appeals, or the supreme court renders a decision in favor of the appellant, said appellant shall be entitled to reasonable attorneys' fees and costs. If a decision of the court is made in favor of the appellant, assistance shall be paid from date of the denial of the application for assistance or (~~(thirty)~~) 30 days after the application for temporary assistance for needy families or (~~(forty-five)~~) 45 days following the date of application, whichever is sooner; or in the case of a recipient, from the effective date of the local community services office decision.

Sec. 2. RCW 74.09.741 and 2011 1st sp.s. c 15 s 53 are each amended to read as follows:

(1) The following persons have the right to an adjudicative proceeding:

(a) Any applicant or recipient who is aggrieved by a decision of the authority or an authorized agency of the authority; or

(b) A current or former recipient who is aggrieved by the authority's claim that he or she owes a debt for overpayment of assistance.

(2) For purposes of this section:

(a) "Applicant" means any person who has made a request, or on behalf of whom a request has been made to the authority for any medical services program established under this chapter (~~(74.09 RCW)~~).

(b) "Recipient" means a person who is receiving benefits from the authority for any medical services program established in this chapter.

(3) An applicant or recipient has no right to an adjudicative proceeding when the sole basis for the authority's decision is a federal or state law requiring an assistance adjustment for a class of applicants or recipients.

(4) An applicant or recipient may file an application for an adjudicative proceeding with either the authority or the department and must do so within (~~(ninety)~~) 90 calendar days after receiving notice of the aggrieving decision unless good cause is shown, to the extent allowable under federal law. The authority shall determine which agency is responsible for representing the state of Washington in the hearing, in accordance with agreements entered pursuant to RCW 41.05.021.

(a) For the purpose of this subsection, good cause is defined as a substantive reason or legal justification for failing to meet a hearing deadline. Good cause to fail to meet a hearing deadline may include, but is not limited to: Military deployment, medical reasons, housing instability, language barriers, or domestic violence.

(b) The authority or the department shall not grant a request for a hearing for good cause if the request is filed more than one year after the aggrieving decision.

(5) (a) The adjudicative proceeding is governed by the administrative procedure act, chapter 34.05 RCW, and this subsection. The following requirements shall apply to adjudicative proceedings in which an appellant seeks review of decisions made by more than one agency. When an appellant files a single application for an adjudicative proceeding seeking review of decisions by

more than one agency, this review shall be conducted initially in one adjudicative proceeding. The presiding officer may sever the proceeding into multiple proceedings on the motion of any of the parties, when:

(i) All parties consent to the severance; or

(ii) Either party requests severance without another party's consent, and the presiding officer finds there is good cause for severing the matter and that the proposed severance is not likely to prejudice the rights of an appellant who is a party to any of the severed proceedings.

(b) If there are multiple adjudicative proceedings involving common issues or parties where there is one appellant and both the authority and the department are parties, upon motion of any party or upon his or her own motion, the presiding offer may consolidate the proceedings if he or she finds that the consolidation is not likely to prejudice the rights of the appellant who is a party to any of the consolidated proceedings.

(c) The adjudicative proceeding shall be conducted at the local community services office or other location in Washington convenient to the applicant or recipient and, upon agreement by the applicant or recipient, may be conducted telephonically.

(d) The applicant or recipient, or his or her representative, has the right to inspect his or her file from the authority and, upon request, to receive copies of authority documents relevant to the proceedings free of charge.

(e) The applicant or recipient has the right to a copy of the audio recording of the adjudicative proceeding free of charge.

(f) If a final adjudicative order is issued in favor of an applicant, medical services benefits must be provided from the date of earliest eligibility, the date of denial of the application for assistance, or ~~((forty-five))~~ 45 days following the date of application, whichever is soonest. If a final adjudicative order is issued in favor of a recipient, medical services benefits must be provided from the effective date of the authority's decision.

(g) The authority is limited to recovering an overpayment arising from

assistance being continued pending the adjudicative proceeding to the amount recoverable up to the ~~((sixtieth))~~ 60th day after the director's receipt of the application for an adjudicative proceeding.

(6) If the director requires that a party seek administrative review of an initial order to an adjudicative proceeding governed by this section, in order for the party to exhaust administrative remedies pursuant to RCW 34.05.534, the director shall adopt and implement rules in accordance with this subsection.

(a) The director, in consultation with the secretary, shall adopt rules to create a process for parties to seek administrative review of initial orders issued pursuant to RCW 34.05.461 in adjudicative proceedings governed by this subsection when multiple agencies are parties.

(b) This process shall seek to minimize any procedural complexities imposed on appellants that result from multiple agencies being parties to the matter, without prejudicing the rights of parties who are public assistance applicants or recipients.

(c) Nothing in this subsection shall impose or modify any legal requirement that a party seek administrative review of initial orders in order to exhaust administrative remedies pursuant to RCW 34.05.534.

(7) This subsection only applies to an adjudicative proceeding in which the appellant is an applicant for or recipient of medical services programs established under this chapter and the issue is his or her eligibility or ineligibility due to the assignment or transfer of a resource. The burden is on the authority or its authorized agency to prove by a preponderance of the evidence that the person knowingly and willingly assigned or transferred the resource at less than market value for the purpose of qualifying or continuing to qualify for medical services programs established under this chapter. If the prevailing party in the adjudicative proceeding is the applicant or recipient, he or she is entitled to reasonable attorneys' fees.

(8) When an applicant or recipient files a petition for judicial review as provided in RCW 34.05.514 of an adjudicative order entered with respect to the medical services program, no

filing fee may be collected from the person and no bond may be required on any appeal. In the event that the superior court, the court of appeals, or the supreme court renders a decision in favor of the applicant or recipient, the person is entitled to reasonable attorneys' fees and costs. If a decision of the court is made in favor of an applicant, assistance shall be paid from the date of earliest eligibility, the date of the denial of the application for assistance, or ((~~forty-five~~) 45 days following the date of application, whichever is soonest. If a decision of the court is made in favor of a recipient, assistance shall be paid from the effective date of the authority's decision.

(9) The provisions of RCW 74.08.080 do not apply to adjudicative proceedings requested or conducted with respect to the medical services program pursuant to this section.

(10) The authority shall adopt any rules it deems necessary to implement this section.

NEW SECTION. **Sec. 3.** 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."

Correct the title.

Signed by Representatives Peterson, Chair; Taylor, Vice Chair; Gilday, Ranking Minority Member; Barkis, Assistant Ranking Minority Member; Bateman; Chopp; Donaghy; Jacobsen and Leavitt.

Referred to Committee on Rules for second reading.

February 24, 2022

ESSB 5758 Prime Sponsor, Committee on Housing & Local Government: Concerning condominium conversions. Reported by Committee on Housing, Human Services & Veterans

MAJORITY recommendation: Do pass. Signed by Representatives Peterson, Chair; Taylor, Vice Chair;

Gilday, Ranking Minority Member; Barkis, Assistant Ranking Minority Member; Bateman; Chopp; Donaghy; Jacobsen and Leavitt.

Referred to Committee on Rules for second reading.

February 24, 2022

SSB 5762 Prime Sponsor, Committee on Early Learning & K-12 Education: Creating the purple star award. Reported by Committee on Education

MAJORITY recommendation: Do pass. Signed by Representatives Santos, Chair; Dolan, Vice Chair; Ybarra, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Berg; Bergquist; Callan; McCaslin; McEntire; Ortiz-Self; Rude; Steele and Stonier.

Referred to Committee on Rules for second reading.

February 24, 2022

SSB 5785 Prime Sponsor, Committee on Human Services, Reentry & Rehabilitation: Concerning transitional food assistance. Reported by Committee on Housing, Human Services & Veterans

MAJORITY recommendation: Do pass. Signed by Representatives Peterson, Chair; Taylor, Vice Chair; Gilday, Ranking Minority Member; Barkis, Assistant Ranking Minority Member; Bateman; Chopp; Donaghy; Jacobsen and Leavitt.

Referred to Committee on Appropriations.

February 24, 2022

SSB 5790 Prime Sponsor, Committee on Ways & Means: Strengthening critical community support services for individuals with intellectual and developmental disabilities. Reported by Committee on Housing, Human Services & Veterans

MAJORITY recommendation: Do pass. Signed by Representatives Peterson, Chair; Taylor, Vice Chair; Gilday, Ranking Minority Member; Barkis, Assistant Ranking Minority Member; Bateman; Chopp; Donaghy; Jacobsen and Leavitt.

Referred to Committee on Appropriations.

February 24, 2022

SSB 5818 Prime Sponsor, Committee on Housing & Local Government: Promoting housing construction in cities through amendments to and limiting appeals under the state environmental policy act and growth

management act. Reported by Committee on Environment & Energy

MAJORITY recommendation: Do pass. Signed by Representatives Fitzgibbon, Chair; Duerr, Vice Chair; Dye, Ranking Minority Member; Klicker, Assistant Ranking Minority Member; Abbarno; Berry; Boehnke; Fey; Goehner; Harris-Talley; Ramel; Shewmake and Slatter.

Referred to Committee on Rules for second reading.

February 24, 2022

SB 5823 Prime Sponsor, Senator Das: Addressing local infrastructure project areas. Reported by Committee on Finance

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 39.108.120 and 2011 c 318 s 601 are each amended to read as follows:

(1) Before adopting an ordinance or resolution creating one or more local infrastructure project areas, a sponsoring city must:

(a) Provide notice to the county assessor, county treasurer, and county within the proposed local infrastructure project area of the sponsoring city's intent to create one or more local infrastructure project areas. This notice must be provided at least one hundred eighty days in advance of the public hearing as required by (b) of this subsection;

(b) Hold a public hearing on the proposed formation of the local infrastructure project area.

(2) A sponsoring city may create one or more local infrastructure project areas by ordinance or resolution that:

(a) Describes the proposed public improvements, identified in the plan under RCW 39.108.080, to be financed in each local infrastructure project area;

(b) Describes the boundaries of each local infrastructure project area, subject to the limitations in RCW 39.108.130; and

(c) Provides the date when the use of local property tax allocation revenues will commence and a list of the participating taxing districts.

(3) The sponsoring city must deliver a certified copy of the adopted ordinance or resolution to the county assessor, county treasurer, and each other participating taxing district within which the local infrastructure project area is located.

(4) The sponsoring city must adopt the department of commerce transfer of development rights interlocal terms and conditions in WAC 365-198-040 and 365-198-060, or its successors, and, if required by an eligible county, enter into a superseding interlocal agreement prior to the date when the use of local property tax allocation revenues will commence for any local infrastructure project area formed after the effective date of this section. An interlocal agreement under this subsection shall define the roles and responsibilities of the parties with respect to the transfer of development rights as determined by the parties.

Sec. 2. RCW 84.55.010 and 2021 c 207 s 10 are each amended to read as follows:

(1) Except as provided in this chapter, the levy for a taxing district in any year must be set so that the regular property taxes payable in the following year do not exceed the limit factor multiplied by the amount of regular property taxes lawfully levied for such district in the highest of the three most recent years in which such taxes were levied for such district, excluding any increase due to (e) and (f) of this subsection, unless the highest levy was the statutory maximum rate amount, plus an additional dollar amount calculated by multiplying the regular property tax levy rate of that district for the preceding year by the increase in assessed value in that district resulting from:

(a) New construction;

(b) 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;

(c) Improvements to property;

(d) Any increase in the assessed value of state-assessed property; (~~and~~)

(e) Any increase in the assessed value of real property, as that term is defined in RCW 39.114.010, within an increment area as designated by any local government in RCW 39.114.020 provided that such increase is not included elsewhere under this section. This subsection (1)(e) 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; and

(f) For taxing districts defined in RCW 39.108.010(23) in any year in which distributions may be made under RCW 39.108.150, any increase in the assessed value within any local infrastructure project area, as defined in RCW 39.108.010(5), to the extent that such increase in assessed value is not included under (a) through (e) of this subsection.

(2) The requirements of this section do not apply to:

(a) State property taxes levied under RCW 84.52.065(1) for collection in calendar years 2019 through 2021; and

(b) State property taxes levied under RCW 84.52.065(2) for collection in calendar years 2018 through 2021.

Sec. 3. RCW 84.55.015 and 2014 c 4 s 2 are each amended to read as follows:

If a taxing district has not levied since 1985 and elects to restore a regular property tax levy subject to applicable statutory limitations then such first restored levy must be set so that the regular property tax payable 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; and

(5) For taxing districts defined in RCW 39.108.010(23) in any year in which distributions may be made under RCW 39.108.150, any increase in the assessed value within any local infrastructure project area, as defined in RCW 39.108.010(5), to the extent that such increase in assessed value is not included under subsections (1) through (4) of this section.

Sec. 4. 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 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) For taxing districts defined in RCW 39.108.010(23) in any year in which distributions may be made under RCW 39.108.150, any increase in the assessed value within any local infrastructure project area, as defined in RCW 39.108.010(5), to the extent that such increase in assessed value is not

included under subsections (1) through (4) of this section.

Sec. 5. RCW 84.55.030 and 2014 c 4 s 4 are each amended to read as follows:

For the first levy for a taxing district following annexation of additional property, the limitation set forth in RCW 84.55.010 must be increased by an amount equal to the aggregate assessed valuation of the newly annexed property as shown by the current completed and balanced tax rolls of the county or counties within which such property lies, multiplied by the dollar rate that would have been used by the annexing unit in the absence of such annexation, plus the additional dollar amount calculated by multiplying the regular property tax levy rate of that annexing taxing district for the preceding year by the increase in assessed value in the annexing 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) For taxing districts defined in RCW 39.108.010(23) in any year in which distributions may be made under RCW 39.108.150, any increase in the assessed value within any local infrastructure project area, as defined in RCW 39.108.010(5), to the extent that such increase in assessed value is not included under subsections (1) through (4) of this section.

Sec. 6. RCW 84.55.120 and 2021 c 207 s 11 are each amended to read as follows:

(1) A taxing district, other than the state, that collects regular levies must hold a public hearing on revenue sources for the district's following year's current expense budget. The hearing must include consideration of possible increases in property tax revenues and must be held prior to the time the taxing district levies the taxes or makes the request to have the taxes levied. The

county legislative authority, or the taxing district's governing body if the district is a city, town, or other type of district, must hold the hearing. For purposes of this section, "current expense budget" means that budget which is primarily funded by taxes and charges and reflects the provision of ongoing services. It does not mean the capital, enterprise, or special assessment budgets of cities, towns, counties, or special purpose districts.

(2) If the taxing district is otherwise required to hold a public hearing on its proposed regular tax levy, a single public hearing may be held on this matter.

(3)(a) Except as provided in (b) of this subsection (3), no increase in property tax revenue may be authorized by a taxing district, other than the state, except by adoption of a separate ordinance or resolution, pursuant to notice, specifically authorizing the increase in terms of both dollars and percentage. The ordinance or resolution may cover a period of up to two years, but the ordinance must specifically state for each year the dollar increase and percentage change in the levy from the previous year.

(b) Exempt from the requirements of (a) of this subsection are increases in revenue resulting from the addition of:

(i) New construction;

(ii) 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;

(iii) Improvements to property;

(iv) Any increase in the value of state-assessed property; ~~(and)~~

(v) Any increase in the assessed value of real property, as that term is defined in RCW 39.114.010, within an increment area as designated by any local government in RCW 39.114.020 provided that such increase is not included elsewhere under this section. This subsection (3)(b)(v) 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; and

(vi) For taxing districts defined in RCW 39.108.010(23) in any year in which distributions may be made under RCW 39.108.150, any increase in the assessed value within any local infrastructure project area, as defined in RCW 39.108.010(5), to the extent that such increase in assessed value is not included under (b) (i) through (v) of this subsection.

Sec. 7. RCW 39.108.010 and 2011 c 318 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) "Assessed value" means the valuation of taxable real property as placed on the last completed assessment roll.

(2) "Eligible county" means any county that borders Puget Sound, that has a population of six hundred thousand or more, and that has an established program for transfer of development rights.

(3) "Employment" means total employment in a county or city, as applicable, estimated by the office of financial management.

(4) "Exchange rate" means an increment of development beyond what base zoning allows that is assigned to a development right by a sponsoring city for use in a receiving area.

(5) "Local infrastructure project area" means the geographic area identified by a sponsoring city under RCW 39.108.120.

(6) "Local infrastructure project financing" means the use of local property tax allocation revenue distributed to the sponsoring city to pay or finance public improvement costs within the local infrastructure project area in accordance with RCW 39.108.150.

(7) "Local property tax allocation revenue" means those tax revenues derived from the receipt of regular property taxes levied on the property tax allocation revenue value and used for local infrastructure project financing.

(8) "Participating taxing district" means a taxing district that:

(a) Has a local infrastructure project area wholly or partially within the taxing district's geographic boundaries; and

(b) Levies, or has levied on behalf of the taxing district, regular property taxes as defined in this section.

(9) "Population" means the population of a city or county, as applicable, estimated by the office of financial management.

(10) "Property tax allocation revenue base value" means the assessed value of real property located within a local infrastructure project area, less the property tax allocation revenue value.

(11)(a)(i) "Property tax allocation revenue value" means an amount equal to the sponsoring city ratio multiplied by seventy-five percent of any increase in the assessed value of real property in a local infrastructure project area resulting from:

(A) The placement of new construction, improvements to property, or both, on the assessment roll, where the new construction and improvements are initiated after the local infrastructure project area is created by the sponsoring city;

(B) The cost of new housing construction, conversion, and rehabilitation improvements, when the cost is treated as new construction for purposes of chapter 84.55 RCW as provided in RCW 84.14.020, and the new housing construction, conversion, and rehabilitation improvements are initiated after the local infrastructure project area is created by the sponsoring city;

(C) The cost of rehabilitation of historic property, when the cost is treated as new construction for purposes of chapter 84.55 RCW as provided in RCW 84.26.070, and the rehabilitation is initiated after the local infrastructure project area is created by the sponsoring city.

(ii) Increases in the assessed value of real property resulting from (a) (i) (A) through (C) of this subsection are included in the property tax allocation revenue value in the initial year. These same amounts are also included in the property tax allocation revenue value in subsequent years unless the property becomes exempt from property taxation.

(b) "Property tax allocation revenue value" includes an amount equal to the sponsoring city ratio multiplied by seventy-five percent of any increase in the assessed value of new construction consisting of an entire building in the years following the initial year, unless the building becomes exempt from property taxation.

(c) Except as provided in (b) of this subsection, "property tax allocation revenue value" does not include any increase in the assessed value of real property after the initial year.

(d) There is no property tax allocation revenue value if the assessed value of real property in a local infrastructure project area has not increased as a result of any of the reasons specified in (a)(i)(A) through (C) of this subsection.

(e) For purposes of this subsection, "initial year" means:

(i) For new construction and improvements to property added to the assessment roll, the year during which the new construction and improvements are initially placed on the assessment roll;

(ii) For the cost of new housing construction, conversion, and rehabilitation improvements, when the cost is treated as new construction for purposes of chapter 84.55 RCW, the year when the cost is treated as new construction for purposes of levying taxes for collection in the following year; and

(iii) For the cost of rehabilitation of historic property, when the cost is treated as new construction for purposes of chapter 84.55 RCW, the year when such cost is treated as new construction for purposes of levying taxes for collection in the following year.

(12) (a) "Public improvements" means:

(i) Infrastructure improvements within the local infrastructure project area that include:

(A) Street, road, bridge, and rail construction and maintenance;

(B) Water and sewer system construction and improvements;

(C) Sidewalks, streetlights, landscaping, and streetscaping;

(D) Parking, terminal, and dock facilities;

(E) Park and ride facilities of a transit authority and other facilities that support transportation efficient development;

(F) Park facilities, recreational areas, bicycle paths, and environmental remediation;

(G) Stormwater and drainage management systems;

(H) Electric, gas, fiber, and other utility infrastructures; ~~((and))~~

(I) Affordable housing as defined in RCW 36.70A.030(2), either provided directly by the sponsoring city, or funded in part or in full by the sponsoring city through municipal governments or nonprofit organizations that fund or provide housing;

(ii) Expenditures for facilities and improvements that support affordable housing;

(iii) Providing maintenance and security for common or public areas in the local infrastructure project area; or

(iv) Historic preservation activities authorized under RCW 35.21.395.

(b) Public improvements do not include the acquisition by a sponsoring city of transferable development rights.

(13) "Real property" has the same meaning as in RCW 84.04.090 and also includes any privately owned improvements located on publicly owned land that are subject to property taxation.

(14) (a) "Regular property taxes" means regular property taxes as defined in RCW 84.04.140, except: (i) Regular property taxes levied by port districts or public utility districts specifically for the purpose of making required payments of principal and interest on general indebtedness; (ii) regular property taxes levied by the state for the support of common schools under RCW 84.52.065; ~~((and))~~ (iii) regular property taxes authorized by RCW 84.55.050 that are limited to a specific purpose; and (iv) any regular property tax levy made for any specific statutory purpose other than use in the county current expense fund.

(b) "Regular property taxes" do not include:

(i) Excess property tax levies that are exempt from the aggregate limits for

junior and senior taxing districts as provided in RCW 84.52.043; and

(ii) Property taxes that are specifically excluded through an interlocal agreement between the sponsoring local government and a participating taxing district as set forth in RCW 39.104.060(3).

(15) "Receiving areas," for purposes of this chapter, are those designated lands within local infrastructure project areas in which transferable development rights from sending areas may be used.

(16) "Receiving city" means any incorporated city with population plus employment equal to twenty-two thousand five hundred or greater within an eligible county.

(17) "Receiving city allocated share" means the total number of transferable development rights from agricultural and forestland of long-term commercial significance and rural zoned lands designated under RCW 39.108.050 within the eligible counties allocated to a receiving city under RCW 39.108.070 (1) and (2).

(18) "Sending areas" means those lands within an eligible county that meet conservation criteria as described in RCW 39.108.030 and 39.108.050.

(19) "Sponsoring city" means a receiving city that accepts all or a portion of its receiving city allocated share, adopts a plan for development of infrastructure within one or more proposed local infrastructure project areas in accordance with RCW 39.108.080, and creates one or more local infrastructure project areas, as specified in RCW 39.108.070(4).

(20) "Sponsoring city allocated share" means the total number of transferable development rights a sponsoring city agrees to accept, under RCW 39.108.070(4), from agricultural and forestland of long-term commercial significance and rural zoned lands designated under RCW 39.108.050 within the eligible counties, plus the total number of transferable development rights transferred to the sponsoring city from another receiving city under RCW 39.108.070(5).

(21) "Sponsoring city ratio" means the ratio of the sponsoring city specified

portion to the sponsoring city allocated share.

(22) "Sponsoring city specified portion" means the portion of a sponsoring city allocated share which may be used within one or more local infrastructure project areas, as set forth in the sponsoring city's plan for development of infrastructure under RCW 39.108.080.

(23) "Taxing district" means a city or county that levies or has levied on behalf of the taxing district, regular property taxes upon real property located within a local infrastructure project area.

(24) "Transfer of development rights" includes methods for protecting land from development by voluntarily removing the development rights from a sending area and transferring them to one or more receiving areas for the purpose of increasing development density or intensity.

(25) "Transferable development rights" means a right to develop one or more residential units in a sending area that can be sold and transferred."

Correct the title.

Signed by Representatives Frame, Chair; Berg, Vice Chair; Walen, Vice Chair; Chopp; Harris-Talley; Morgan; Orwall; Ramel; Springer; Thai and Wylie.

MINORITY recommendation: Do not pass. Signed by Representatives Orcutt, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Chase; Stokesbary and Vick.

Referred to Committee on Rules for second reading.

February 24, 2022

SB 5825

Prime Sponsor, Senator Kuderer: Establishing a rental and vacant property registration program work group. Reported by Committee on Housing, Human Services & Veterans

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that the lack of sufficient affordable housing inventory, specifically rental housing, is deeply felt statewide. The legislature also finds that despite the administration of

numerous local rental property registration and landlord licensing programs, it is difficult to accurately track housing inventory and understand the extent of affordable housing need and housing supply shortages on a statewide scale. To accurately track and maintain the level of rental and vacant housing in this state, the legislature intends with this act to convene a work group to evaluate the feasibility of creating a statewide rental and vacant property registration program and database.

NEW SECTION. **Sec. 2.** (1) The department of commerce must convene a work group to make recommendations on the creation of a statewide rental and vacant property registration program for the purpose of inventorying both tenant-occupied and potentially available rental housing.

(2) The work group must include relevant stakeholders including, but not limited to, tenant representatives, landlord and property management representatives, multifamily housing representatives, housing developer representatives, and representatives from cities and counties.

(3) The work group must meet at least three times and evaluate the following:

(a) Current local rental property registration and landlord licensing programs and strategies to synthesize and collect registration information from such programs into a statewide database, while addressing any information technology challenges;

(b) Which property and landlord information should be collected and made disclosable in such a database;

(c) The need to implement a rental and vacant property registration requirement over time and across specific state regions, and challenges in both identifying housing units and providing adequate notice to rental and vacant property owners subject to a registration requirement;

(d) The imposition of registration or licensing fees and fee amounts, use of fee revenue, and appropriate penalties;

(e) Which types of housing units should be exempted from a statewide registration requirement;

(f) The use of a statewide registration program database to provide

rental assistance program information to both tenants and landlords;

(g) The feasibility of requiring landlords to report rent rate data as part of such a registration program; and

(h) Any other relevant factors or considerations discussed by the work group.

(4) The department of commerce must issue a final report, including any work group findings and recommendations, to the appropriate committees of the legislature by June 1, 2023.

(5) This section expires June 1, 2024."

Correct the title.

Signed by Representatives Peterson, Chair; Taylor, Vice Chair; Bateman; Chopp; Donaghy and Leavitt.

MINORITY recommendation: Do not pass. Signed by Representatives Gilday, Ranking Minority Member; Barkis, Assistant Ranking Minority Member and Jacobsen.

Referred to Committee on Rules for second reading.

February 24, 2022

E2SSB 5842 Prime Sponsor, Committee on Ways & Means: Concerning state laws that address climate change. Reported by Committee on Environment & Energy

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 70A.65.070 and 2021 c 316 s 9 are each amended to read as follows:

(1)(a) The department shall commence the program by January 1, 2023, by determining an emissions baseline establishing the proportionate share that the total greenhouse gas emissions of covered entities for the first compliance period bears to the total anthropogenic greenhouse gas emissions in the state during 2015 through 2019, based on data reported to the department under RCW 70A.15.2200 or provided as required by this chapter, as well as other relevant data. By October 1, 2022, the department shall adopt annual allowance budgets for the first compliance period of the program, calendar years 2023 through 2026, to be

distributed from January 1, 2023, through December 31, 2026.

(b) By October 1, 2026, the department shall add to its emissions baseline by incorporating the proportionate share that the total greenhouse gas emissions of new covered entities in the second compliance period bear to the total anthropogenic greenhouse gas emissions in the state during (~~(2023)~~) 2015 through (~~(2025)~~) 2019. In determining the addition to the baseline, the department may exclude a year from the determination if the department identifies that year to have been an outlier due to a state of emergency. The department shall adopt annual allowance budgets for the second compliance period of the program, calendar years 2027 through 2030, that will be distributed from January 1, 2027, through December 31, 2030.

(c) By October 1, 2028, the department shall adopt by rule the annual allowance budgets for calendar years 2031 through 2040.

(2) The annual allowance budgets must be set to achieve the share of reductions by covered entities necessary to achieve the 2030, 2040, and 2050 statewide emissions limits established in RCW 70A.45.020, based on data reported to the department under chapter 70A.15 RCW or provided as required by this chapter. Annual allowance budgets must be set such that the use of offsets as compliance instruments, consistent with RCW 70A.65.170, does not prevent the achievement of the emissions limits established in RCW 70A.45.020. In so setting annual allowance budgets, the department must reduce the annual allowance budget relative to the limits in an amount equivalent to offset use, or in accordance with a similar methodology adopted by the department. The department must adopt annual allowance budgets for the program on a calendar year basis that provide for progressively equivalent reductions year over year. An allowance distributed under the program, either directly by the department under RCW 70A.65.110 through 70A.65.130 or (~~though~~ ~~through~~) through auctions under RCW 70A.65.100, does not expire and may be held or banked consistent with RCW 70A.65.100(6) and 70A.65.150(1).

(3) The department must complete (~~an~~) evaluations by December 31, 2027, and by December 31, 2035, of the performance of the program, including its performance in reducing greenhouse

gases. If the evaluation shows that adjustments to the annual allowance budgets are necessary for covered entities to achieve their proportionate share of the 2030 and 2040 emission reduction limits identified in RCW 70A.45.020, as applicable, the department shall adjust the annual allowance budgets accordingly. The department must complete additional evaluations of the performance of the program by December 31, 2040, and by December 31, 2045, and make any necessary adjustments in the annual allowance budgets to ensure that covered entities achieve their proportionate share of the 2050 emission reduction limit identified in RCW 70A.45.020. Nothing in this subsection precludes the department from making additional adjustments to annual allowance budgets as necessary to ensure successful achievement of the proportionate emission reduction limits by covered entities. The department shall determine and make public the circumstances, metrics, and processes that would initiate the public consideration of additional allowance budget adjustments to ensure successful achievement of the proportionate emission reduction limits.

(4) Data reported to the department under RCW 70A.15.2200 or provided as required by this chapter for 2015 through 2019 is deemed sufficient for the purpose of adopting annual allowance budgets and serving as the baseline by which covered entities demonstrate compliance under the first compliance period of the program. Data reported to the department under RCW 70A.15.2200 or provided as required by this chapter for 2023 through 2025 is deemed sufficient for adopting annual allowance budgets and serving as the baseline by which covered entities demonstrate compliance under the second compliance period of the program.

(5) The legislature intends to promote a growing and sustainable economy and to avoid leakage of emissions from manufacturing to other jurisdictions. Therefore, the legislature finds that implementation of this section is contingent upon the enactment of RCW 70A.65.110.

NEW SECTION. Sec. 2. A new section is added to chapter 70A.65 RCW to read as follows:

(1) A covered or opt-in entity has a compliance obligation for its emissions during each four-year compliance period,

with the first compliance period commencing January 1, 2023. The department shall by rule require that covered or opt-in entities annually transfer a percentage of compliance instruments, but must fully satisfy their compliance obligation, for each compliance period.

(2) Compliance occurs through the transfer of the required compliance instruments or price ceiling units, on or before the transfer date, from the holding account to the compliance account of the covered or opt-in entity as described in RCW 70A.65.080.

(3) (a) A covered entity may substitute the submission of compliance instruments with price ceiling units.

(b) A covered or opt-in entity submitting insufficient compliance instruments to meet its compliance obligation is subject to a penalty as provided in RCW 70A.65.200.

(4) Older vintage allowances must be retired before newer vintage allowances.

(5) Upon receipt by the department of all compliance instruments transferred by a covered entity or opt-in entity to meet its compliance obligation, the department shall retire the allowances or offset credits.

Sec. 3. RCW 70A.65.100 and 2021 c 316 s 12 are each amended to read as follows:

(1) Except as provided in RCW 70A.65.110, 70A.65.120, and 70A.65.130, the department shall distribute allowances through auctions as provided in this section and in rules adopted by the department to implement these sections. An allowance is not a property right.

(2) (a) The department shall hold a maximum of four auctions annually, plus any necessary reserve auctions. An auction may include allowances from the annual allowance budget of the current year and allowances from the annual allowance budgets from prior years that remain to be distributed. The department must transmit to the environmental justice council an auction notice at least 60 days prior to each auction, as well as a summary results report and a postauction public proceeds report within 60 days after each auction. The department must communicate the results of the previous calendar year's auctions

to the environmental justice council on an annual basis beginning in 2024.

(b) The department must make future vintage allowances available through parallel auctions at least twice annually in addition to the auctions through which current vintage allowances are exclusively offered under (a) of this subsection.

(3) The department shall engage a qualified, independent contractor to run the auctions. The department shall also engage a qualified financial services administrator to hold the bid guarantees, evaluate bid guarantees, and inform the department of the value of bid guarantees once the bids are accepted.

(4) Auctions are open to covered entities, opt-in entities, and general market participants that are registered entities in good standing. The department shall adopt by rule the requirements for a registered entity to register and participate in a given auction.

(a) Registered entities intending to participate in an auction must submit an application to participate at least 30 days prior to the auction. The application must include the documentation required for review and approval by the department. A registered entity is eligible to participate only after receiving a notice of approval by the department.

(b) Each registered entity that elects to participate in the auction must have a different representative. Only a representative with an approved auction account is authorized to access the auction platform to submit an application or confirm the intent to bid for the registered entity, submit bids on behalf of the registered entity during the bidding window, or to download reports specific to the auction.

(5) The department may require a bid guarantee, payable to the financial services administrator, in an amount greater than or equal to the sum of the maximum value of the bids to be submitted by the registered entity.

(6) To protect the integrity of the auctions, a registered entity or group of registered entities with a direct corporate association are subject to auction purchase and holding limits. The department may impose additional limits if it deems necessary to protect the

integrity and functioning of the auctions:

(a) A covered entity or an opt-in entity may not buy more than 10 percent of the allowances offered during a single auction;

(b) A general market participant may not buy more than four percent of the allowances offered during a single auction and may not in aggregate own more than 10 percent of total allowances to be issued in a calendar year;

(c) No registered entity may buy more than the entity's bid guarantee; and

(d) No registered entity may buy allowances that would exceed the entity's holding limit at the time of the auction.

(7)(a) For fiscal year 2023, upon completion and verification of the auction results, the financial services administrator shall notify winning bidders and transfer the auction proceeds to the state treasurer for deposit as follows: (i) \$127,341,000 must first be deposited into the carbon emissions reduction account created in RCW 70A.65.240; and (ii) the remaining auction proceeds to the climate investment account created in RCW 70A.65.250 and the air quality and health disparities improvement account created in RCW 70A.65.280.

(b) For fiscal year 2024, upon completion and verification of the auction results, the financial services administrator shall notify winning bidders and transfer the auction proceeds to the state treasurer for deposit as follows: (i) \$356,697,000 must first be deposited into the carbon emissions reduction account created in RCW 70A.65.240; and (ii) the remaining auction proceeds to the climate investment account created in RCW 70A.65.250 and the air quality and health disparities improvement account created in RCW 70A.65.280.

(c) For fiscal year 2025, upon completion and verification of the auction results, the financial services administrator shall notify winning bidders and transfer the auction proceeds to the state treasurer for deposit as follows: (i) \$366,558,000 must first be deposited into the carbon emissions reduction account created in RCW 70A.65.240; and (ii) the remaining auction proceeds to the climate investment account created in RCW

70A.65.250 and the air quality and health disparities improvement account created in RCW 70A.65.280.

(d) For fiscal years 2026 through 2037, upon completion and verification of the auction results, the financial services administrator shall notify winning bidders and transfer the auction proceeds to the state treasurer for deposit as follows: (i) \$359,117,000 per year must first be deposited into the carbon emissions reduction account created in RCW 70A.65.240; and (ii) the remaining auction proceeds to the climate investment account created in RCW 70A.65.250 and the air quality and health disparities improvement account created in RCW 70A.65.280.

(e) The deposits into the carbon emissions reduction account pursuant to (a) through (d) of this subsection must not exceed \$5,200,000,000 over the first 16 fiscal years and any remaining auction proceeds must be deposited into the climate investment account created in RCW 70A.65.250 and the air quality and health disparities improvement account created in RCW 70A.65.280.

(f) For fiscal year 2038 and each year thereafter, upon completion and verification of the auction results, the financial services administrator shall notify winning bidders and transfer the auction proceeds to the state treasurer for deposit as follows: (i) 50 percent of the auction proceeds to the carbon emissions reduction account created in RCW 70A.65.240; and (ii) the remaining auction proceeds to the climate investment account created in RCW 70A.65.250 and the air quality and health disparities improvement account created in RCW 70A.65.280.

(8) The department shall adopt by rule provisions to guard against bidder collusion and minimize the potential for market manipulation. A registered entity may not release or disclose any bidding information including: Intent to participate or refrain from participation; auction approval status; intent to bid; bidding strategy; bid price or bid quantity; or information on the bid guarantee provided to the financial services administrator. The department may cancel or restrict a previously approved auction participation application or reject a new application if the department determines that a registered entity has:

(a) Provided false or misleading facts;

(b) Withheld material information that could influence a decision by the department;

(c) Violated any part of the auction rules;

(d) Violated registration requirements; or

(e) Violated any of the rules regarding the conduct of the auction.

(9) Records containing the following information are confidential and are exempt from public disclosure in their entirety:

(a) Bidding information as identified in subsection (8) of this section;

(b) Information contained in the secure, online electronic tracking system established by the department pursuant to RCW 70A.65.090(6);

(c) Financial, proprietary, and other market sensitive information as determined by the department that is submitted to the department pursuant to this chapter;

(d) Financial, proprietary, and other market sensitive information as determined by the department that is submitted to the independent contractor or the financial services administrator engaged by the department pursuant to subsection (3) of this section; and

(e) Financial, proprietary, and other market sensitive information as determined by the department that is submitted to a jurisdiction with which the department has entered into a linkage agreement pursuant to RCW 70A.65.210, and which is shared with the department, the independent contractor, or the financial services administrator pursuant to a linkage agreement.

(10) Any cancellation or restriction approved by the department under subsection (8) of this section may be permanent or for a specified number of auctions and the cancellation or restriction imposed is not exclusive and is in addition to the remedies that may be available pursuant to chapter 19.86 RCW or other state or federal laws, if applicable.

~~((11))~~ (11) The department shall design allowance auctions so as to allow, to the maximum extent practicable,

linking with external greenhouse gas emissions trading programs in other jurisdictions and to facilitate the transfer of allowances when the state's program has entered into a linkage agreement with other external greenhouse gas emissions trading programs. The department may conduct auctions jointly with linked jurisdictions.

~~((11))~~ (12) In setting the number of allowances offered at each auction, the department shall consider the allowances in the marketplace due to the marketing of allowances issued as required under RCW 70A.65.110, 70A.65.120, and 70A.65.130 in the department's determination of the number of allowances to be offered at auction. The department shall offer only such number of allowances at each auction as will enhance the likelihood of achieving the goals of RCW 70A.45.020.

Sec. 4. RCW 70A.65.200 and 2021 c 316 s 23 are each amended to read as follows:

(1) All covered and opt-in entities are required to submit compliance instruments in a timely manner to meet the entities' compliance obligations and shall comply with all requirements for monitoring, reporting, holding, and transferring emission allowances and other provisions of this chapter.

(2) If a covered or opt-in entity does not submit sufficient compliance instruments to meet its compliance obligation by the specified transfer dates, a penalty of four allowances for every one compliance instrument that is missing must be submitted to the department within six months. When a covered entity or opt-in entity reasonably believes that it will be unable to meet a compliance obligation, the entity shall immediately notify the department. Upon receiving notification, the department shall issue an order requiring the entity to submit the penalty allowances.

(3) If a covered entity or opt-in entity fails to submit penalty allowances as required by subsection (2) of this section, the department must issue an order or issue a penalty of up to \$10,000 per day per violation, or both, for failure to submit penalty allowances as required by subsection (2) of the section. The order may include a plan and schedule for coming into compliance.

(4) The department may issue a penalty of up to \$50,000 per day per violation

for violations of RCW 70A.65.100(8) (a) through (e).

(5) Except as provided in subsections (3) and (4) of this section, any person that violates the terms of this chapter or an order issued under this chapter incurs a penalty of up to \$10,000 per day per violation for each day that the person does not comply. All penalties under subsections (3) and (4) of this section and this subsection must be deposited into the climate investment account created in RCW 70A.65.250.

(6) Orders and penalties issued under this chapter are appealable to the pollution control hearings board under chapter 43.21B RCW.

(7) For the first compliance period, the department may reduce the amount of the penalty by adjusting the monetary amount or the number of penalty allowances described in subsections (2) and (3) of this section.

(8) An electric utility or natural gas utility must notify its retail customers and the environmental justice council in published form within three months of paying a monetary penalty under this section.

(9)(a) No city, town, county, township, or other subdivision or municipal corporation of the state may implement a charge or tax based exclusively upon the quantity of greenhouse gas emissions.

(b) No state agency may adopt or enforce a ~~((program that regulates greenhouse gas emissions from a stationary source except as provided in this chapter))~~ greenhouse gas pricing or market-based emissions cap and reduce program for stationary sources, or adopt or enforce emission limitations on greenhouse gas emissions from stationary sources except as:

(i) Provided in this chapter;

(ii) Authorized or directed by state statute; or

(iii) Required to implement a federal statute, rule, or program.

(c) This chapter preempts the provisions of chapter 173-442 WAC, and the department shall repeal chapter 173-442 WAC.

Sec. 5. RCW 70A.65.020 and 2021 c 316 s 3 are each amended to read as follows:

(1) To ensure that the program created in RCW 70A.65.060 through 70A.65.210 achieves reductions in criteria pollutants as well as greenhouse gas emissions in overburdened communities highly impacted by air pollution, the department must:

(a) Identify overburdened communities, which may be accomplished through the department's process to identify overburdened communities under chapter ~~((314, Laws of 2021))~~ 70A.02 RCW;

(b) Deploy an air monitoring network in overburdened communities to collect sufficient air quality data for the 2023 review and subsequent reviews of criteria pollutant reductions conducted under subsection (2) of this section; and

(c)(i) Within the identified overburdened communities, analyze and determine which sources are the greatest contributors of criteria pollutants and develop a high priority list of significant emitters.

(ii) Prior to listing any entity as a high priority emitter, the department must notify that entity and share the data used to rank that entity as a high priority emitter, and provide a period of not less than 60 days for the covered entity to submit more recent data or other information relevant to the designation of that entity as a high priority emitter.

(2)(a) Beginning in 2023, and every two years thereafter, the department must conduct a review to determine levels of criteria pollutants, as well as greenhouse gas emissions, in the overburdened communities identified under subsection (1) of this section. This review must also include an evaluation of initial and subsequent health impacts related to criteria pollution in overburdened communities. The department may conduct this evaluation jointly with the department of health.

(b) Once this review determines the levels of criteria pollutants in an identified overburdened community, then the department, in consultation with local air pollution control authorities, must:

(i) Establish air quality targets to achieve air quality consistent with whichever is more protective for human health:

(A) National ambient air quality standards established by the United States environmental protection agency; or

(B) The air quality experienced in neighboring communities that are not identified as overburdened;

(ii) Identify the stationary and mobile sources that are the greatest contributors of those emissions that are either increasing or not decreasing;

(iii) Achieve the reduction targets through adoption of emission control strategies or other methods;

(iv) Adopt, along with local air pollution control authorities, stricter air quality standards, emission standards, or emissions limitations on criteria pollutants, consistent with the authority of the department provided under RCW 70A.15.3000, and may consider alternative mitigation actions that would reduce criteria pollution by similar amounts; and

(v) After adoption of the stricter air quality standards, emission standards, or emissions limitations on criteria pollutants under (b)(iv) of this subsection, issue an enforceable order or the local air authority must issue an enforceable order, as authorized under RCW 70A.15.1100, as necessary to comply with the stricter standards or limitations and the requirements of this section. The department or local air authority must initiate the process, including provision of notice to all relevant affected permittees or registered sources and to the public, to adopt and implement an enforceable order required under this subsection within six months of the adoption of standards or limitations under (b)(iv) of this subsection.

(c) Actions imposed under this section may not impose requirements on a permitted stationary source that are disproportionate to the permitted stationary source's contribution to air pollution compared to other permitted stationary sources and other sources of criteria pollutants in the overburdened community.

(3) An eligible facility sited after July 25, 2021, that receives allowances under RCW 70A.65.110 must mitigate increases in ~~(its emissions of)~~ particulate matter in overburdened communities due to its emissions.

(4) (a) The department must create and adopt a supplement to the department's community engagement plan developed pursuant to chapter ~~((314, Laws of 2021))~~ 70A.02 RCW. The supplement must describe how the department will engage with overburdened communities and vulnerable populations in:

(i) Identifying emitters in overburdened communities; and

(ii) Monitoring and evaluating criteria pollutant emissions in those areas.

(b) The community engagement plan must include methods for outreach and communication with those who face barriers, language or otherwise, to participation.

Sec. 6. RCW 70A.65.150 and 2021 c 316 s 17 are each amended to read as follows:

(1) To help minimize allowance price volatility in the auction, the department shall adopt by rule an auction floor price and a schedule for the floor price to increase by a predetermined amount every year. The department may not sell allowances at bids lower than the auction floor price. The department's rules must specify holding limits that determine the maximum number of allowances that may be held for use or trade by a registered entity at any one time. The department shall also establish ~~((an auction ceiling))~~ a reserve auction floor price to limit extraordinary prices and to determine when to offer allowances through the allowance price containment reserve auctions authorized under this section.

(2) For calendar years 2023 through 2026, the department must place no less than two percent of the total number of allowances available from the allowance budgets for those years in an allowance price containment reserve. The reserve must be designed as a mechanism to assist in containing compliance costs for covered and opt-in entities in the event of unanticipated high costs for compliance instruments.

(3) (a) The department shall adopt rules for holding auctions of allowances from the price containment reserve when the settlement prices in the preceding auction ~~((approach))~~ exceed the adopted ~~((auction ceiling))~~ reserve auction floor price. The auction must be separate from auctions of other allowances.

(b) Allowances must also be distributed from the allowance price containment reserve by auction when new covered and opt-in entities enter the program and allowances in the emissions containment reserve under RCW 70A.65.140(5) are exhausted.

(4) Only covered and opt-in entities may participate in the auction of allowances from the allowance price containment reserve.

(5) The process for reserve auctions is the same as the process provided in RCW 70A.65.100 and the proceeds from reserve auctions must be treated the same.

(6) The department shall by rule:

(a) Set the reserve auction floor price in advance of the reserve auction. The department may choose to establish multiple price tiers for the allowances from the reserve;

(b) Establish the requirements and schedule for the allowance price containment reserve auctions; and

(c) Establish the amount of allowances to be placed in the allowance price containment reserve after the first compliance period ending in 2026.

Sec. 7. RCW 70A.65.160 and 2021 c 316 s 18 are each amended to read as follows:

(1) The department shall establish a price ceiling to provide cost protection for ~~((facilities))~~ covered entities obligated to comply with this chapter. The ceiling must be set at a level sufficient to facilitate investments to achieve further emission reductions beyond those enabled by the price ceiling, with the intent that investments accelerate the state's achievement of greenhouse gas limits established under RCW 70A.45.020. The price ceiling must increase annually in proportion to the ~~((price floor))~~ reserve auction floor price established in RCW 70A.65.150(1).

(2) In the event that no allowances remain in the allowance price containment reserve, the department must issue the number of price ceiling units for sale sufficient to provide cost protection for ~~((facilities))~~ covered entities as established under subsection (1) of this section. Purchases must be limited to entities that do not have sufficient eligible compliance instruments in their holding and compliance accounts for the ~~((next))~~ current compliance period and

these entities may only purchase what they need to meet their compliance obligation for the current compliance period. Price ceiling units may not be sold or transferred and must be retired for compliance in the current compliance period. A price ceiling unit is not a property right.

(3) ~~((Funds raised in connection with the sale of price ceiling units))~~ The price ceiling unit emission reduction investment account is created in the state treasury. All receipts from the sale of price ceiling units must be deposited in the account. Moneys in the account may only be spent after appropriation. Moneys in the account must be expended to achieve emissions reductions on at least a metric ton for metric ton basis that are real, permanent, quantifiable, verifiable, enforceable by the state, and in addition to any greenhouse gas emission reduction otherwise required by law or regulation and any other greenhouse gas emission reduction that otherwise would occur.

Sec. 8. RCW 70A.65.230 and 2021 c 316 s 26 are each amended to read as follows:

(1) It is the intent of the legislature that each year the total investments made through the carbon emissions reduction account created in RCW 70A.65.240, the climate commitment account created in RCW 70A.65.260, the natural climate solutions account created in RCW 70A.65.270, and the air quality and health disparities improvement account created in RCW 70A.65.280, achieve the following:

(a) A minimum of not less than 35 percent and a goal of 40 percent of total investments that provide direct and meaningful benefits to vulnerable populations within the boundaries of overburdened communities identified under chapter ~~((314, Laws of 2021))~~ 70A.02 RCW; and

(b) In addition to the requirements of (a) of this subsection, a minimum of not less than 10 percent of total investments that are used for programs, activities, or projects formally supported by a resolution of an Indian tribe, with priority given to otherwise qualifying projects directly administered or proposed by an Indian tribe. An investment that meets the requirements of both this subsection (1)(b) and (a) of this subsection may count toward the

minimum percentage targets for both subsections.

(2) The expenditure of moneys under this chapter must be consistent with applicable federal, state, and local laws, and treaty rights including, but not limited to, prohibitions on uses of funds imposed by the state Constitution.

(3) For the purposes of this section, "benefits" means investments or activities that:

(a) Reduce vulnerable population characteristics, environmental burdens, or associated risks that contribute significantly to the cumulative impact designation of ~~((highly impacted))~~ overburdened communities;

(b) Meaningfully protect an overburdened community from, or support community response to, the impacts of air pollution or climate change; or

(c) Meet a community need identified by vulnerable members of the overburdened community that is consistent with the intent of this chapter.

(4) The state must develop a process by which to evaluate the impacts of the investments made under this chapter, work across state agencies to develop and track priorities across the different eligible funding categories, and work with the environmental justice council pursuant to RCW 70A.65.040.

(5) No expenditures may be made from the carbon emissions reduction account created in RCW 70A.65.240, the climate investment account created in RCW 70A.65.250, or the air quality and health disparities improvement account created in RCW 70A.65.280 if, by April 1, 2023, the legislature has not considered and enacted request legislation brought forth by the department under RCW 70A.65.060 that outlines a compliance pathway specific to emissions-intensive, trade-exposed businesses for achieving their proportionate share of the state's emissions reduction limits through 2050.

Sec. 9. RCW 70A.15.2200 and 2021 c 316 s 33 are each amended to read as follows:

(1) The board of any activated authority or the department, may classify air contaminant sources, by ordinance, resolution, rule or regulation, which in its judgment may cause or contribute to air pollution, according to levels and types of emissions and other

characteristics which cause or contribute to air pollution, and may require registration or reporting or both for any such class or classes. Classifications made pursuant to this section may be for application to the area of jurisdiction of such authority, or the state as a whole or to any designated area within the jurisdiction, and shall be made with special reference to effects on health, economic and social factors, and physical effects on property.

(2) Except as provided in subsection (3) of this section, any person operating or responsible for the operation of air contaminant sources of any class for which the ordinances, resolutions, rules or regulations of the department or board of the authority, require registration or reporting shall register therewith and make reports containing information as may be required by such department or board concerning location, size and height of contaminant outlets, processes employed, nature of the contaminant emission and such other information as is relevant to air pollution and available or reasonably capable of being assembled. In the case of emissions of greenhouse gases as defined in RCW 70A.45.010 the department shall adopt rules requiring reporting of those emissions. The department or board may require that such registration or reporting be accompanied by a fee, and may determine the amount of such fee for such class or classes: PROVIDED, That the amount of the fee shall only be to compensate for the costs of administering such registration or reporting program which shall be defined as initial registration and annual or other periodic reports from the source owner providing information directly related to air pollution registration, on-site inspections necessary to verify compliance with registration requirements, data storage and retrieval systems necessary for support of the registration program, emission inventory reports and emission reduction credits computed from information provided by sources pursuant to registration program requirements, staff review, including engineering or other reliable analysis for accuracy and currentness, of information provided by sources pursuant to registration program requirements, clerical and other office support provided in direct furtherance of the registration program, and administrative support provided in directly carrying out

the registration program: PROVIDED FURTHER, That any such registration made with either the board or the department shall preclude a further registration and reporting with any other board or the department, except that emissions of greenhouse gases as defined in RCW 70A.45.010 must be reported as required under subsection (5) of this section.

All registration program and reporting fees collected by the department shall be deposited in the air pollution control account. All registration program fees collected by the local air authorities shall be deposited in their respective treasuries.

(3) If a registration or report has been filed for a grain warehouse or grain elevator as required under this section, registration, reporting, or a registration program fee shall not, after January 1, 1997, again be required under this section for the warehouse or elevator unless the capacity of the warehouse or elevator as listed as part of the license issued for the facility has been increased since the date the registration or reporting was last made. If the capacity of the warehouse or elevator listed as part of the license is increased, any registration or reporting required for the warehouse or elevator under this section must be made by the date the warehouse or elevator receives grain from the first harvest season that occurs after the increase in its capacity is listed in the license.

This subsection does not apply to a grain warehouse or grain elevator if the warehouse or elevator handles more than ~~((ten million))~~ 10,000,000 bushels of grain annually.

(4) For the purposes of subsection (3) of this section:

(a) A "grain warehouse" or "grain elevator" is an establishment classified in standard industrial classification (SIC) code 5153 for wholesale trade for which a license is required and includes, but is not limited to, such a licensed facility that also conducts cleaning operations for grain;

(b) A "license" is a license issued by the department of agriculture licensing a facility as a grain warehouse or grain elevator under chapter 22.09 RCW or a license issued by the federal government licensing a facility as a grain warehouse or grain elevator for purposes similar to

those of licensure for the facility under chapter 22.09 RCW; and

(c) "Grain" means a grain or a pulse.

(5)(a) The department shall adopt rules requiring persons to report emissions of greenhouse gases as defined in RCW 70A.45.010 where those emissions from a single facility, or from electricity or fossil fuels sold in Washington by a single supplier or local distribution company, meet or exceed ~~((ten thousand))~~ 10,000 metric tons of carbon dioxide equivalent annually. The rules adopted by the department must support implementation of the program created in RCW 70A.65.060. In addition, the rules must require that:

(i) Emissions of greenhouse gases resulting from the combustion of fossil fuels be reported separately from emissions of greenhouse gases resulting from the combustion of biomass; and

(ii) Each annual report must include emissions data for the preceding calendar year and must be submitted to the department by March 31st of the year in which the report is due, except for an electric power entity, which must submit its report by June 1st of the year in which the report is due.

(b)(i) The department may by rule include additional gases to the definition of "greenhouse gas" in RCW 70A.45.010 only if the gas has been designated as a greenhouse gas by the United States congress, by the United States environmental protection agency, or included in external greenhouse gas emission trading programs with which Washington has pursuant to RCW 70A.65.210. Prior to including additional gases to the definition of "greenhouse gas" in RCW 70A.45.010, the department shall notify the appropriate committees of the legislature.

(ii) The department may by rule exempt persons who are required to report greenhouse gas emissions to the United States environmental protection agency and who emit less than ~~((ten thousand))~~ 10,000 metric tons carbon dioxide equivalent annually.

(iii) The department must establish a methodology for persons who are not required to report under this section to voluntarily report their greenhouse gas emissions.

(c) (i) The department shall review and if necessary update its rules whenever:

(A) The United States environmental protection agency adopts final amendments to 40 C.F.R. Part 98 to ensure consistency with federal reporting requirements for emissions of greenhouse gases; or

(B) Needed to ensure consistency with emissions reporting requirements for jurisdictions with which Washington has entered a linkage agreement.

(ii) The department shall not amend its rules in a manner that conflicts with this section.

(d) The department shall share any reporting information reported to it with the local air authority in which the person reporting under the rules adopted by the department operates.

(e) The fee provisions in subsection (2) of this section apply to reporting of emissions of greenhouse gases. Persons required to report under (a) of this subsection who fail to report or pay the fee required in subsection (2) of this section are subject to enforcement penalties under this chapter. The department shall enforce the reporting rule requirements. When a person that holds a compliance obligation under RCW 70A.65.080 fails to submit an emissions data report or fails to obtain a positive emissions data verification statement in accordance with (g) (ii) of this subsection, the department may assign an emissions level for that person.

(f) The energy facility site evaluation council shall, simultaneously with the department, adopt rules that impose greenhouse gas reporting requirements in site certifications on owners or operators of a facility permitted by the energy facility site evaluation council. The greenhouse gas reporting requirements imposed by the energy facility site evaluation council must be the same as the greenhouse gas reporting requirements imposed by the department. The department shall share any information reported to it from facilities permitted by the energy facility site evaluation council with the council, including notice of a facility that has failed to report as required. The energy facility site evaluation council shall contract with the department to monitor the reporting requirements adopted under this section.

(g) (i) The department must establish by rule the methods of verifying the accuracy of emissions reports.

(ii) Verification requirements apply at a minimum to persons required to report under (a) of this subsection with emissions that equal or exceed 25,000 metric tons of carbon dioxide equivalent emissions, including carbon dioxide from biomass-derived fuels, or to persons who have a compliance obligation under RCW 70A.65.080 in any year of the current compliance period. The department may adopt rules to accept verification reports from another jurisdiction with a linkage agreement pursuant to RCW 70A.65.180 in cases where the department deems that the methods or procedures are substantively similar.

(h) (i) The definitions in RCW 70A.45.010 apply throughout this subsection (5) unless the context clearly requires otherwise.

(ii) For the purpose of this subsection (5), the term "supplier" includes: (A) Suppliers that produce, import, or deliver, or any combination of producing, importing, or delivering, a quantity of fuel products in Washington that, if completely combusted, oxidized, or used in other processes, would result in the release of greenhouse gases in Washington equivalent to or higher than the threshold established under (a) of this subsection; and (B) suppliers of carbon dioxide that produce, import, or deliver a quantity of carbon dioxide in Washington that, if released, would result in emissions equivalent to or higher than the threshold established under (a) of this subsection.

(iii) For the purpose of this subsection (5), the term "person" includes: (A) An owner or operator of a facility; (B) a supplier; or (C) an electric power entity.

(iv) For the purpose of this subsection (5), the term "facility" includes facilities that directly emit greenhouse gases in Washington equivalent to the threshold established under (a) of this subsection with at least one source category listed in the United States environmental protection agency's mandatory greenhouse gas reporting regulation, 40 C.F.R. Part 98 Subparts C through II and RR through UU, as adopted on April 25, 2011.

(v) For the purpose of this subsection (5), the term "electric power entity"

includes any of the following that supply electric power in Washington with associated emissions of greenhouse gases equal to or above the threshold established under (a) of this subsection: (A) Electricity importers and exporters; (B) retail providers, including multijurisdictional retail providers; and (C) first jurisdictional deliverers, as defined in RCW 70A.65.010, not otherwise included here.

Sec. 10. RCW 70A.65.010 and 2021 c 316 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) "Allowance" means an authorization to emit up to one metric ton of carbon dioxide equivalent.

(2) "Allowance price containment reserve" means an account maintained by the department with allowances available for sale through separate reserve auctions at predefined prices to assist in containing compliance costs for covered and opt-in entities in the event of unanticipated high costs for compliance instruments.

(3) "Annual allowance budget" means the total number of greenhouse gas allowances allocated for auction and distribution for one calendar year by the department.

(4) "Asset controlling supplier" means any entity that owns or operates interconnected electricity generating facilities or serves as an exclusive marketer for these facilities even though it does not own them, and has been designated by the department and received a department-published emissions factor for the wholesale electricity procured from its system. The department shall use a methodology consistent with the methodology used by an external greenhouse gas emissions trading program that shares the regional electricity transmission system. Electricity from an asset controlling supplier is considered a specified source of electricity.

(5) "Auction" means the process of selling greenhouse gas allowances by offering them up for bid, taking bids, and then distributing the allowances to winning bidders.

(6) "Auction floor price" means a price for allowances below which bids at auction are not eligible to be accepted.

(7) "Auction purchase limit" means the limit on the number of allowances one registered entity or a group of affiliated registered entities may purchase from the share of allowances sold at an auction.

(8) "Balancing authority" means the responsible entity that integrates resource plans ahead of time, maintains load-interchange-generation balance within a balancing authority area, and supports interconnection frequency in real time.

(9) "Balancing authority area" means the collection of generation, transmission, and load within the metered boundaries of a balancing authority. A balancing authority maintains load-resource balance within this area.

(10) "Best available technology" means a technology or technologies that will achieve the greatest reduction in greenhouse gas emissions, taking into account the fuels, processes, and equipment used by facilities to produce goods of comparable type, quantity, and quality. Best available technology must be technically feasible, commercially available, economically viable, not create excessive environmental impacts, and be compliant with all applicable laws while not changing the characteristics of the good being manufactured.

(11) "Biomass" means nonfossilized and biodegradable organic material originating from plants, animals, and microorganisms, including products, by-products, residues, and waste from agriculture, forestry, and related industries as well as the nonfossilized and biodegradable organic fractions of municipal wastewater and industrial waste, including gases and liquids recovered from the decomposition of nonfossilized and biodegradable organic material.

(12) "Biomass-derived fuels," "biomass fuels," or "biofuels" means fuels derived from biomass that have at least 40 percent lower greenhouse gas emissions based on a full life-cycle analysis when compared to petroleum fuels for which biofuels are capable as serving as a substitute.

(13) "Carbon dioxide equivalents" means a measure used to compare the

emissions from various greenhouse gases based on their global warming potential.

(14) "Carbon dioxide removal" means deliberate human activities removing carbon dioxide from the atmosphere and durably storing it in geological, terrestrial, or ocean reservoirs, or in products. "Carbon dioxide removal" includes existing and potential anthropogenic enhancement of biological or geochemical sinks and including, but not limited to, carbon mineralization and direct air capture and storage.

(15) "Climate commitment" means the process and mechanisms to ensure a coordinated and strategic approach to advancing climate resilience and environmental justice and achieving an equitable and inclusive transition to a carbon neutral economy.

(16) "Climate resilience" is the ongoing process of anticipating, preparing for, and adapting to changes in climate and minimizing negative impacts to our natural systems, infrastructure, and communities. For natural systems, increasing climate resilience involves restoring and increasing the health, function, and integrity of our ecosystems and improving their ability to absorb and recover from climate-affected disturbances. For communities, increasing climate resilience means enhancing their ability to understand, prevent, adapt, and recover from climate impacts to people and infrastructure.

(17) "Closed facility" means a facility at which the current owner or operator has elected to permanently stop production and will no longer be an emissions source.

(18) "Compliance instrument" means an allowance or offset credit issued by the department or by an external greenhouse gas emissions trading program to which Washington has linked its greenhouse gas emissions cap and invest program. One compliance instrument is equal to one metric ton of carbon dioxide equivalent.

(19) "Compliance obligation" means the requirement to submit to the department the number of compliance instruments equivalent to a covered or opt-in entity's covered emissions during the compliance period.

(20) "Compliance period" means the four-year period for which the compliance obligation is calculated for covered entities.

(21) "Cost burden" means the impact on rates or charges to customers of electric utilities in Washington state for the incremental cost of electricity service to serve load due to the compliance cost for greenhouse gas emissions caused by the program. Cost burden includes administrative costs from the utility's participation in the program.

(22) "Covered emissions" means the emissions for which a covered entity has a compliance obligation under RCW 70A.65.080.

(23) "Covered entity" means a person that is designated by the department as subject to RCW 70A.65.060 through 70A.65.210.

(24) "Cumulative environmental health impact" has the same meaning as provided in RCW 70A.02.010.

(25) "Curtailed facility" means a facility at which the owner or operator has temporarily suspended production but for which the owner or operator maintains operating permits and retains the option to resume production if conditions become amenable.

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

(27) "Electricity importer" means:

(a) For electricity that is scheduled with a NERC e-tag to a final point of delivery into a balancing authority area located entirely within the state of Washington, the electricity importer is identified on the NERC e-tag as the purchasing-selling entity on the last segment of the tag's physical path with the point of receipt located outside the state of Washington and the point of delivery located inside the state of Washington;

(b) For facilities physically located outside the state of Washington with the first point of interconnection to a balancing authority area located entirely within the state of Washington when the electricity is not scheduled on a NERC e-tag, the electricity importer is the facility operator or owner;

(c) For electricity imported through a centralized market, the electricity importer will be defined by rule consistent with the rules required under RCW 70A.65.080(1)(c);

(d) For electricity from facilities allocated to serve retail electricity

customers of a multijurisdictional electric company, the electricity importer is the multijurisdictional electric company;

(e) If the importer identified under (a) of this subsection is a federal power marketing administration over which the state of Washington does not have jurisdiction, and the federal power marketing administration has not voluntarily elected to comply with the program, then the electricity importer is the next purchasing-selling entity in the physical path on the NERC e-tag, or if no additional purchasing-selling entity over which the state of Washington has jurisdiction, then the electricity importer is the electric utility that operates the Washington transmission or distribution system, or the generation balancing authority;

(f) For electricity that is imported into the state by a federal power marketing administration and sold to a public body or cooperative customer or direct service industrial customer located in Washington pursuant to section 5(b) or (d) of the Pacific Northwest electric power planning and conservation act of 1980, P.L. 96-501, the electricity importer is the federal marketing administration;

(g) If the importer identified under (f) of this subsection has not voluntarily elected to comply with the program, then the electricity importer is the public body or cooperative customer or direct service industrial customer; or

(h) For electricity from facilities allocated to a consumer-owned utility inside the state of Washington from a multijurisdictional consumer-owned utility, the electricity importer is the consumer-owned utility inside the state of Washington.

(28) "Emissions containment reserve allowance" means a conditional allowance that is withheld from sale at an auction by the department or its agent to secure additional emissions reductions in the event prices fall below the emissions containment reserve trigger price.

(29) "Emissions containment reserve trigger price" means the price below which allowances will be withheld from sale by the department or its agent at an auction, as determined by the department by rule.

(30) "Emissions threshold" means the greenhouse gas emission level at or above which a person has a compliance obligation.

(31) "Environmental benefits" has the same meaning as defined in RCW 70A.02.010.

(32) "Environmental harm" has the same meaning as defined in RCW 70A.02.010.

(33) "Environmental impacts" has the same meaning as defined in RCW 70A.02.010.

(34) "Environmental justice" has the same meaning as defined in RCW 70A.02.010.

(35) "Environmental justice assessment" has the same meaning as identified in RCW 70A.02.060.

(36) "External greenhouse gas emissions trading program" means a government program, other than Washington's program created in this chapter, that restricts greenhouse gas emissions from sources outside of Washington and that allows emissions trading.

(37) "Facility" means any physical property, plant, building, structure, source, or stationary equipment located on one or more contiguous or adjacent properties in actual physical contact or separated solely by a public roadway or other public right-of-way and under common ownership or common control, that emits or may emit any greenhouse gas.

(38) "First jurisdictional deliverer" means the owner or operator of an electric generating facility in Washington or an electricity importer.

(39) "General market participant" means a registered entity that is not identified as a covered entity or an opt-in entity that is registered in the program registry and intends to purchase, hold, sell, or voluntarily retire compliance instruments.

(40) "Greenhouse gas" has the same meaning as in RCW 70A.45.010.

(41) "Holding limit" means the maximum number of allowances that may be held for use or trade by a registered entity at any one time.

(42) "Imported electricity" means electricity generated outside the state of Washington with a final point of delivery within the state.

(a) "Imported electricity" includes electricity from an organized market, such as the energy imbalance market.

(b) "Imported electricity" includes imports from linked jurisdictions, but such imports shall be construed as having no emissions.

(c) Electricity from a system that is marketed by a federal power marketing administration shall be construed as "imported electricity," not electricity generated in the state of Washington.

(d) "Imported electricity" does not include electricity imports of unspecified electricity that are netted by exports of unspecified electricity to any jurisdiction not covered by a linked program by the same entity within the same hour.

(e) For a multijurisdictional electric company, "imported electricity" means electricity, other than from in-state facilities, that contributes to a common system power pool. Where a multijurisdictional electric company has a cost allocation methodology approved by the utilities and transportation commission, the allocation of specific facilities to Washington's retail load will be in accordance with that methodology.

(f) For a multijurisdictional consumer-owned utility, "imported electricity" includes electricity from facilities that contribute to a common system power pool that are allocated to a consumer-owned utility inside the state of Washington pursuant to a methodology approved by the governing board of the consumer-owned utility.

(43) "Leakage" means a reduction in emissions of greenhouse gases within the state that is offset by a directly attributable increase in greenhouse gas emissions outside the state and outside the geography of another jurisdiction with a linkage agreement with Washington.

(44) "Limits" means the greenhouse gas emissions reductions required by RCW 70A.45.020.

(45) "Linkage" means a bilateral or multilateral decision under a linkage agreement between greenhouse gas market programs to accept compliance instruments issued by a participating jurisdiction to meet the obligations of regulated entities in a partner jurisdiction and to otherwise coordinate

activities to facilitate operation of a joint market.

(46) "Linkage agreement" means a nonbinding agreement that connects two or more greenhouse gas market programs and articulates a mutual understanding of how the participating jurisdictions will work together to facilitate a connected greenhouse gas market.

(47) "Linked jurisdiction" means a jurisdiction with which Washington has entered into a linkage agreement.

(48) "Multijurisdictional consumer-owned utility" means a consumer-owned utility that provides electricity to member owners in Washington and in one or more other states in a contiguous service territory or from a common power system.

(49) "Multijurisdictional electric company" means an investor-owned utility that provides electricity to customers in Washington and in one or more other states in a contiguous service territory or from a common power system.

(50) "NERC e-tag" means North American electric reliability corporation (NERC) energy tag representing transactions on the North American bulk electricity market scheduled to flow between or across balancing authority areas.

(51) "Offset credit" means a tradable compliance instrument that represents an emissions reduction or emissions removal of one metric ton of carbon dioxide equivalent.

(52) "Offset project" means a project that reduces or removes greenhouse gases that are not covered emissions under this chapter.

(53) "Offset protocols" means a set of procedures and standards to quantify greenhouse gas reductions or greenhouse gas removals achieved by an offset project.

(54) "Overburdened community" means a geographic area where vulnerable populations face combined, multiple environmental harms and health impacts or risks due to exposure to environmental pollutants or contaminants through multiple pathways, which may result in significant disparate adverse health outcomes or effects.

(a) "Overburdened community" includes, but is not limited to:

(i) Highly impacted communities as defined in RCW 19.405.020;

(ii) Communities located in census tracts that are fully or partially on "Indian country" as defined in 18 U.S.C. Sec. 1151; and

(iii) Populations, including Native Americans or immigrant populations, who may be exposed to environmental contaminants and pollutants outside of the geographic area in which they reside based on the populations' use of traditional or cultural foods and practices, such as the use of resources, access to which is protected under treaty rights in ceded areas, when those exposures in conjunction with other exposures may result in disproportionately greater risks, including risks of certain cancers or other adverse health effects and outcomes.

(b) Overburdened communities identified by the department may include the same communities as those identified by the department through its process for identifying overburdened communities under RCW 70A.02.010.

(55) "Person" has the same meaning as defined in RCW 70A.15.2200(5)(h)(iii).

(56) "Point of delivery" means a point on the electricity transmission or distribution system where a deliverer makes electricity available to a receiver, or available to serve load. This point may be an interconnection with another system or a substation where the transmission provider's transmission and distribution systems are connected to another system, or a distribution substation where electricity is imported into the state over a multijurisdictional retail provider's distribution system.

(57) "Price ceiling unit" means the units issued at a fixed price by the department for the purpose of limiting price increases and funding further investments in greenhouse gas reductions.

(58) "Program" means the greenhouse gas emissions cap and invest program created by and implemented pursuant to this chapter.

(59) "Program registry" means the data system in which covered entities, opt-in entities, and general market participants are registered and in which compliance instruments are recorded and tracked.

(60) "Registered entity" means a covered entity, opt-in entity, or general market participant that has completed the process for registration in the program registry.

(61) "Resilience" means the ability to prepare, mitigate and 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.

(62) "Retire" means to permanently remove a compliance instrument such that the compliance instrument may never be sold, traded, or otherwise used again.

(63) "Specified source of electricity" or "specified source" means a facility, unit, or asset controlling supplier that is permitted to be claimed as the source of electricity delivered. The reporting entity must have either full or partial ownership in the facility or a written power contract to procure electricity generated by that facility or unit or from an asset controlling supplier at the time of entry into the transaction to procure electricity.

(64) "Supplier" means a supplier of fuel in Washington state as defined in RCW 70A.15.2200(5)(h)(ii).

(65) "Tribal lands" has the same meaning as defined in RCW 70A.02.010.

(66) "Unspecified source of electricity" or "unspecified source" means a source of electricity that is not a specified source at the time of entry into the transaction to procure electricity.

(67) "Voluntary renewable reserve account" means a holding account maintained by the department from which allowances may be retired for voluntary renewable electricity generation, which is directly delivered to the state and has not and will not be sold or used to meet any other mandatory requirements in the state or any other jurisdiction, on behalf of voluntary renewable energy purchasers or end users.

(68) "Vulnerable populations" has the same meaning as defined in RCW 70A.02.010.

Sec. 11. RCW 70A.65.140 and 2021 c 316 s 16 are each amended to read as follows:

(1) To help ensure that the price of allowances remains sufficient to incentivize reductions in greenhouse gas emissions, the department must establish an emissions containment reserve and set an emissions containment reserve trigger price by rule. The price must be set at a reasonable amount above the auction floor price and equal to the level established in jurisdictions with which the department has entered into a linkage agreement. ~~((In the event that))~~ If a jurisdiction with which the department ~~((has entered))~~ might enter into a linkage agreement has no emissions containment trigger price, the department ~~((shall))~~ may suspend the trigger price under this subsection. The purpose of withholding allowances in the emissions containment reserve is to secure additional emissions reductions.

(2) In the event that the emissions containment reserve trigger price is met during an auction, the department must automatically withhold allowances as needed. The department must convert and transfer any allowances that have been withheld from auction into the emissions containment reserve account.

(3) Emissions containment reserve allowances may only be withheld from an auction if the demand for allowances would result in an auction clearing price that is less than the emissions containment reserve trigger price prior to the withholding from the auction of any emissions containment reserve allowances.

(4) The department shall transfer allowances to the emissions containment reserve in the following situations:

(a) No less than two percent of the total number of allowances available from the allowance budgets for calendar years 2023 through 2026;

(b) When allowances are unsold in auctions under RCW 70A.65.100;

(c) When facilities curtail or close consistent with RCW 70A.65.110(6); or

(d) When facilities fall below the emissions threshold. The amount of allowances withdrawn from the program budget must be proportionate to the amount of emissions such a facility was previously using.

(5)(a) Allowances must be distributed from the emissions containment reserve by

auction when new covered and opt-in entities enter the program.

(b) Allowances equal to the greenhouse gas emissions resulting from a new or expanded emissions-intensive, trade-exposed facility with emissions in excess of 25,000 metric tons per year during the first applicable compliance period will be provided to the facility from the reserve created in this section and must be retired by the facility. In subsequent compliance periods, the facility will be subject to the regulatory cap and related requirements under this chapter.

Sec. 12. RCW 70A.65.170 and 2021 c 316 s 19 are each amended to read as follows:

(1) The department shall adopt by rule the protocols for establishing offset projects and securing offset credits that may be used to meet a portion of a covered or opt-in entity's compliance obligation under this chapter ~~((316, Laws of 2021))~~. The protocols adopted by the department under this section must align with the policies of the state established under RCW 70A.45.090 and 70A.45.100.

(2) Offset projects must:

(a) Provide direct environmental benefits to the state or be located in a jurisdiction with which Washington has entered into a linkage agreement;

(b) Result in greenhouse gas reductions or removals that:

(i) Are real, permanent, quantifiable, verifiable, and enforceable; and

(ii) Are in addition to greenhouse gas emission reductions or removals otherwise required by law and other greenhouse gas emission reductions or removals that would otherwise occur; and

(c) Have been certified by a recognized registry ~~((after July 25, 2021, or within two years prior to July 25, 2021))~~.

(3)(a) A total of no more than five percent of a covered or opt-in entity's compliance obligation during the first compliance period may be met by transferring offset credits. During these years, at least 50 percent of a covered or opt-in entity's compliance obligation satisfied by offset credits must be sourced from offset projects that provide direct environmental benefits in the state.

(b) A total of no more than four percent of a covered or opt-in entity's compliance obligation during the second compliance period may be met by transferring offset credits. During these years, at least 75 percent of a covered or opt-in entity's compliance obligation satisfied by offset credits must be sourced from offset projects that provide direct environmental benefits in the state. The department may reduce the 75 percent requirement if it determines there is not sufficient offset supply in the state to meet offset demand during the second compliance period.

(c) The limits in (a) and (b) of this subsection may be modified by rule as adopted by the department when appropriate to ensure achievement of the proportionate share of statewide emissions limits established in RCW 70A.45.020 and to provide for alignment with other jurisdictions to which the state has linked.

(d) The limits in (a) and (b) of this subsection may be reduced for a specific covered or opt-in entity if the department determines, in consultation with the environmental justice council, that the covered or opt-in entity has or is likely to:

(i) Contribute substantively to cumulative air pollution burden in an overburdened community as determined by criteria established by the department, in consultation with the environmental justice council; or

(ii) Violate any permits required by any federal, state, or local air pollution control agency where the violation may result in an increase in emissions.

(e) An offset project on federally recognized tribal land does not count against the offset credit limits described in (a) and (b) of this subsection.

(i) No more than three percent of a covered or opt-in entity's compliance obligation may be met by transferring offset credits from projects on federally recognized tribal land during the first compliance period.

(ii) No more than two percent of a covered or opt-in entity's compliance obligation may be met by transferring offset credits from projects on federally recognized tribal land during the second compliance period.

(4) In adopting protocols governing offset projects and covered and opt-in entities' use of offset credits, the department shall:

(a) Take into consideration standards, rules, or protocols for offset projects and offset credits established by other states, provinces, and countries with programs comparable to the program established in this chapter;

(b) Encourage opportunities for the development of offset projects in this state by adopting offset protocols that may include, but need not be limited to, protocols that make use of aggregation or other mechanisms to reduce transaction costs related to the development of offset projects and that support the development of carbon dioxide removal projects;

(c) Adopt a process for monitoring and invalidating offset credits as necessary to ensure the credit reflects emission reductions or removals that continue to meet the standards required by subsection (1) of this section. If an offset credit is invalidated, the covered or opt-in entity must, within six months of the invalidation, transfer replacement credits or allowances to meet its compliance obligation. Failure to transfer the required credits or allowances is a violation subject to penalties as provided in RCW 70A.65.200; and

(d) Make use of aggregation or other mechanisms, including cost-effective inventory and monitoring provisions, to increase the development of offset and carbon removal projects by landowners across the broadest possible variety of types and sizes of lands, including lands owned by small forestland owners.

(5) Any offset credits used (~~may not~~) must:

(a) Not be in addition to or allow for an increase in the emissions limits established under RCW 70A.45.020, as reflected in the annual allowance budgets developed under RCW 70A.65.070;

(b) Have been issued for reporting periods wholly after July 25, 2021, or within two years prior to July 25, 2021; and

(c) Be consistent with offset protocols adopted by the department.

(6) The offset credit must be registered and tracked as a compliance instrument.

(7) Beginning in 2031, the limits established in subsection (3)(b) and (e)(ii) of this section apply unless modified by rule as adopted by the department after a public consultation process.

Sec. 13. RCW 70A.65.030 and 2021 c 316 s 4 are each amended to read as follows:

(1) Each year or biennium, as appropriate, when allocating funds from the carbon emissions reduction account created in RCW 70A.65.240, the climate commitment account created in RCW 70A.65.260, the natural climate solutions account created in RCW 70A.65.270, the climate investment account created in RCW 70A.65.250, or the air quality and health disparities improvement account created in RCW 70A.65.280, or administering grants or programs funded by the accounts, agencies shall conduct an environmental justice assessment consistent with the requirements of RCW 70A.02.060 and establish a minimum of not less than 35 percent and a goal of 40 percent of total investments that provide direct and meaningful benefits to vulnerable populations within the boundaries of overburdened communities through: (a) The direct reduction of environmental burdens in overburdened communities; (b) the reduction of disproportionate, cumulative risk from environmental burdens, including those associated with climate change; (c) the support of community led project development, planning, and participation costs; or (d) meeting a community need identified by the community that is consistent with the intent of this chapter or RCW 70A.02.010.

(2) The allocation of funding under subsection (1) of this section must adhere to the following principles, additional to the requirements of RCW 70A.02.080: (a) Benefits and programs should be directed to areas and targeted to vulnerable populations and overburdened communities to reduce statewide disparities; (b) investments and benefits should be made roughly proportional to the health disparities that a specific community experiences, with a goal of eliminating the disparities; (c) investments and programs should focus on creating environmental benefits, including

eliminating health burdens, creating community and population resilience, and raising the quality of life of those in the community; and (d) efforts should be made to balance investments and benefits across the state and within counties, local jurisdictions, and unincorporated areas as appropriate to reduce disparities by location and to ensure efforts contribute to a reduction in disparities that exist based on race or ethnicity, socioeconomic status, or other factors.

(3) State agencies allocating funds or administering grants or programs from the carbon emissions reduction account created in RCW 70A.65.240, the climate commitment account created in RCW 70A.65.260, the natural climate solutions account created in RCW 70A.65.270, the climate investment account created in RCW 70A.65.250, or the air quality and health disparities improvement account created in RCW 70A.65.280, must:

(a) Report annually to the environmental justice council created in RCW 70A.02.110 regarding progress toward meeting environmental justice and environmental health goals;

(b) Consider recommendations by the environmental justice council; and

(c)(i) If the agency is not a covered agency subject to the requirements of chapter (~~314, Laws of 2021~~) 70A.02 RCW, create and adopt a community engagement plan to describe how it will engage with overburdened communities and vulnerable populations in allocating funds or administering grants or programs from the climate investment account.

(ii) The plan must include methods for outreach and communication with those who face barriers, language or otherwise, to participation.

Sec. 14. RCW 70A.65.040 and 2021 c 316 s 5 are each amended to read as follows:

(1) The environmental justice council created in RCW 70A.02.110 must provide recommendations to the legislature, agencies, and the governor in the development and implementation of the program established in RCW 70A.65.060 through 70A.65.210, and the programs funded from the carbon emissions reduction account created in RCW 70A.65.240, the climate commitment account created in RCW 70A.65.260, the

natural climate solutions account created in RCW 70A.65.270, and ((from)) the climate investment account created in RCW 70A.65.250.

(2) In addition to the duties and authorities granted in chapter 70A.02 RCW to the environmental justice council, the environmental justice council must:

(a) Provide recommendations to the legislature, agencies, and the governor in the development of:

(i) The program established in RCW 70A.65.060 through 70A.65.210 including, but not limited to, linkage with other jurisdictions, protocols for establishing offset projects and securing offset credits, designation of emissions-intensive and trade-exposed industries under RCW 70A.65.110, and administration of allowances under the program; and

(ii) Investment plans and funding proposals for the programs funded from the climate investment account created in RCW 70A.65.250 for the purpose of providing environmental benefits and reducing environmental health disparities within overburdened communities;

(b) Provide a forum to analyze policies adopted under this chapter to determine if the policies lead to improvements within overburdened communities;

(c) Recommend procedures and criteria for evaluating programs, activities, or projects;

(d) Recommend copollutant emissions reduction goals in overburdened communities;

(e) Evaluate the level of funding provided to assist vulnerable populations, low-income individuals, and impacted workers and the funding of projects and activities located within or benefiting overburdened communities;

(f) Recommend environmental justice and environmental health goals for programs, activities, and projects funded from the climate investment account, and review agency annual reports on outcomes and progress toward meeting these goals;

(g) Provide recommendations to implementing agencies for meaningful consultation with vulnerable populations, including community

engagement plans under RCW 70A.65.020 and 70A.65.030; and

(h) Recommend how to support public participation through capacity grants for participation.

(3) For the purpose of performing the duties under subsection (2) of this section, two additional tribal members are added to the council.

Sec. 15. RCW 70A.02.110 and 2021 c 314 s 20 are each amended to read as follows:

(1) The environmental justice council is established to advise covered agencies on incorporating environmental justice into agency activities.

(2) The council consists of 14 members, except as provided in RCW 70A.65.040(3), appointed by the governor. The councilmembers must be persons who are well-informed regarding and committed to the principles of environmental justice and who, to the greatest extent practicable, represent diversity in race, ethnicity, age, and gender, urban and rural areas, and different regions of the state. The members of the council shall elect two members to serve as cochairs for two-year terms. The council must include:

(a) Seven community representatives, including one youth representative, the nominations of which are based upon applied and demonstrated work and focus on environmental justice or a related field, such as racial or economic justice, and accountability to vulnerable populations and overburdened communities;

(i) The youth representative must be between the ages of 18 and 25 at the time of appointment;

(ii) The youth representative serves a two-year term. All other community representatives serve four-year terms, with six representatives initially being appointed to four-year terms and five being initially appointed to two-year terms, after which they will be appointed to four-year terms;

(b) Two members representing tribal communities, one from eastern Washington and one from western Washington, appointed by the governor, plus two tribal members as specified in RCW 70A.65.040. The governor shall solicit and consider nominees from each of the federally recognized tribes in

Washington state. The governor shall collaborate with federally recognized tribes on the selection of tribal representatives. The tribal representatives serve four-year terms. One representative must be initially appointed for a four-year term. The other representative must be initially appointed for a two-year term, after which, that representative must be appointed for a four-year term;

(c) Two representatives who are environmental justice practitioners or academics to serve as environmental justice experts, the nominations of which are based upon applied and demonstrated work and focus on environmental justice;

(d)(i) One representative of a business that is regulated by a covered agency and whose ordinary business conditions are significantly affected by the actions of at least one other covered agency; and

(ii) One representative who is a member or officer of a union representing workers in the building and construction trades; and

(e) One representative at large, the nomination of which is based upon applied and demonstrated work and focus on environmental justice.

(3) Covered agencies shall serve as nonvoting, ex officio liaisons to the council. Each covered agency must identify an executive team level staff person to participate on behalf of the agency.

(4) Nongovernmental members of the council must be compensated and reimbursed in accordance with RCW 43.03.050, 43.03.060, and 43.03.220.

(5) The department of health must:

(a) Hire a manager who is responsible for overseeing all staffing and administrative duties in support of the council; and

(b) Provide all administrative and staff support for the council.

(6) In collaboration with the office of equity, the office of financial management, the council, and covered agencies, the department of health must:

(a) Establish standards for the collection, analysis, and reporting of disaggregated data as it pertains to tracking population level outcomes of communities;

(b) Create statewide and agency-specific process and outcome measures to show performance:

(i) Using outcome-based methodology to determine the effectiveness of agency programs and services on reducing environmental disparities; and

(ii) Taking into consideration community feedback from the council on whether the performance measures established accurately measure the effectiveness of covered agency programs and services in the communities served; and

(c) Create an online performance dashboard to publish performance measures and outcomes as referenced in RCW 70A.02.090 for the state and each covered agency.

(7) The department of health must coordinate with the consolidated technology services agency to address cybersecurity and data protection for all data collected by the department.

(8)(a) With input and assistance from the council, the department of health must establish an interagency work group to assist covered agencies in incorporating environmental justice into agency decision making. The work group must include staff from each covered agency directed to implement environmental justice provisions under this chapter and may include members from the council. The department of health shall provide assistance to the interagency work group by:

(i) Facilitating information sharing among covered agencies on environmental justice issues and between agencies and the council;

(ii) Developing and providing assessment tools for covered agencies to use in the development and evaluation of agency programs, services, policies, and budgets;

(iii) Providing technical assistance and compiling and creating resources for covered agencies to use; and

(iv) Training covered agency staff on effectively using data and tools for environmental justice assessments.

(b) The duties of the interagency work group include:

(i) Providing technical assistance to support agency compliance with the implementation of environmental justice

into their strategic plans, environmental justice obligations for budgeting and funding criteria and decisions, environmental justice assessments, and community engagement plans;

(ii) Assisting the council in developing a suggested schedule and timeline for sequencing the types of: (A) Funding and expenditure decisions subject to rules; and (B) criteria incorporating environmental justice principles;

(iii) Identifying other policies, priorities, and projects for the council's review and guidance development;

(iv) Identifying goals and metrics that the council may use to assess agency performance in meeting the requirements of chapter 314, Laws of 2021 for purposes of communicating progress to the public, the governor, and the legislature; and

(v) Developing the guidance under subsection (9)(c) of this section in coordination with the council.

(9) The council has the following powers and duties:

(a) To provide a forum for the public to:

(i) Provide written or oral testimony on their environmental justice concerns;

(ii) Assist the council in understanding environmental justice priorities across the state in order to develop council recommendations to agencies for issues to prioritize; and

(iii) Identify which agencies to contact with their specific environmental justice concerns and questions;

(b)(i) The council shall work in an iterative fashion with the interagency work group to develop guidance for environmental justice implementation into covered agency strategic plans pursuant to RCW 70A.02.040, environmental justice assessments pursuant to RCW 70A.02.060, budgeting and funding criteria for making budgeting and funding decisions pursuant to RCW 70A.02.080, and community engagement plans pursuant to RCW 70A.02.050;

(ii) The council and interagency work group shall regularly update its guidance;

(c) In consultation with the interagency work group, the council:

(i) Shall provide guidance to covered agencies on developing environmental justice assessments pursuant to RCW 70A.02.060 for significant agency actions;

(ii) Shall make recommendations to covered agencies on which agency actions may cause environmental harm or may affect the equitable distribution of environmental benefits to an overburdened community or a vulnerable population and therefore should be considered significant agency actions that require an environmental justice assessment under RCW 70A.02.060;

(iii) Shall make recommendations to covered agencies:

(A) On the identification and prioritization of overburdened communities under this chapter; and

(B) Related to the use by covered agencies of the environmental and health disparities map in agency efforts to identify and prioritize overburdened communities;

(iv) May make recommendations to a covered agency on the timing and sequencing of a covered agencies' efforts to implement RCW 70A.02.040 through 70A.02.080; and

(v) May make recommendations to the governor and the legislature regarding ways to improve agency compliance with the requirements of this chapter;

(d) By December 1, 2023, and biennially thereafter, and with consideration of the information shared on September 1st each year in covered agencies' annual updates to the council required under RCW 70A.02.090, the council must:

(i) Evaluate the progress of each agency in applying council guidance, and update guidance as needed; and

(ii) Communicate each covered agency's progress to the public, the governor, and the legislature. This communication is not required to be a report and may take the form of a presentation or other format that communicates the progress of the state and its agencies in meeting the state's environmental justice goals in compliance with chapter 314, Laws of 2021, and summarizing the work of the council pursuant to (a) through (d) of

this subsection, and subsection (11) of this section; and

(e) To fulfill the responsibilities established for the council in RCW 70A.65.040.

(10) By November 30, 2023, and in compliance with RCW 43.01.036, the council must submit a report to the governor and the appropriate committees of the house of representatives and the senate on:

(a) The council's recommendations to covered agencies on the identification of significant agency actions requiring an environmental justice assessment under subsection (9) (c) (ii) of this section;

(b) The summary of covered agency progress reports provided to the council under RCW 70A.02.090(1), including the status of agency plans for performing environmental justice assessments required by RCW 70A.02.060; and

(c) Guidance for environmental justice implementation into covered agency strategic plans, environmental justice assessments, budgeting and funding criteria, and community engagement plans under subsection (9) (c) (i) of this section.

(11) The council may:

(a) Review incorporation of environmental justice implementation plans into covered agency strategic plans pursuant to RCW 70A.02.040, environmental justice assessments pursuant to RCW 70A.02.060, budgeting and funding criteria for making budgeting and funding decisions pursuant to RCW 70A.02.080, and community engagement plans pursuant to RCW 70A.02.050;

(b) Make recommendations for amendments to this chapter or other legislation to promote and achieve the environmental justice goals of the state;

(c) Review existing laws and make recommendations for amendments that will further environmental justice;

(d) Recommend to specific agencies that they create environmental justice-focused, agency-requested legislation;

(e) Provide requested assistance to state agencies other than covered agencies that wish to incorporate environmental justice principles into agency activities; and

(f) Recommend funding strategies and allocations to build capacity in vulnerable populations and overburdened communities to address environmental justice.

(12) The role of the council is purely advisory and council decisions are not binding on an agency, individual, or organization.

(13) The department of health must convene the first meeting of the council by January 1, 2022.

(14) All council meetings are subject to the open public meetings requirements of chapter 42.30 RCW and a public comment period must be provided at every meeting of the council."

Correct the title.

Signed by Representatives Fitzgibbon, Chair; Duerr, Vice Chair; Berry; Fey; Harris-Talley; Ramel; Shewmake and Slatter.

MINORITY recommendation: Do not pass. Signed by Representatives Dye, Ranking Minority Member; Klicker, Assistant Ranking Minority Member; Abbarno; Boehnke and Goehner.

Referred to Committee on Rules for second reading.

February 24, 2022

SB 5868

Prime Sponsor, Senator Hawkins: Expanding the use of the rural counties public facilities sales and use tax to include affordable workforce housing. Reported by Committee on Finance

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 82.14.370 and 2012 c 225 s 4 are each amended to read as follows:

(1) The legislative authority of a rural county may impose a sales and use tax in accordance with the terms of this chapter. The tax is in addition to other taxes authorized by law and must be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the county. The rate of tax may not exceed 0.09 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, except that for rural counties with population densities between ((sixty)) 60 and ((one hundred))

100 persons per square mile, the rate shall not exceed 0.04 percent before January 1, 2000.

(2) The tax imposed under subsection (1) of this section must be deducted from the amount of tax otherwise required to be collected or paid over to the department of revenue under chapter 82.08 or 82.12 RCW. The department of revenue must perform the collection of such taxes on behalf of the county at no cost to the county.

(3)(a) Moneys collected under this section may only be used to finance public facilities serving economic development purposes in rural counties and finance personnel in economic development offices. The public facility must be listed as an item in the officially adopted county overall economic development plan, or the economic development section of the county's comprehensive plan, or the comprehensive plan of a city or town located within the county for those counties planning under RCW 36.70A.040, or provide affordable workforce housing infrastructure or facilities. For those counties that do not have an adopted overall economic development plan and do not plan under the growth management act, the public facility must be listed in the county's capital facilities plan or the capital facilities plan of a city or town located within the county, or provide affordable workforce housing infrastructure or facilities.

(b) In implementing this section, the county must consult with cities, towns, and port districts located within the county and the associate development organization serving the county to ensure that the expenditure meets the goals of chapter 130, Laws of 2004 and the requirements of (a) of this subsection. Each county collecting money under this section must report, as follows, to the office of the state auditor, within (~~one hundred fifty~~) 150 days after the close of each fiscal year: (i) A list of new projects begun during the fiscal year, showing that the county has used the funds for those projects consistent with the goals of chapter 130, Laws of 2004 and the requirements of (a) of this subsection; and (ii) expenditures during the fiscal year on projects begun in a previous year. Any projects financed prior to June 10, 2004, from the proceeds of obligations to which the tax imposed under subsection (1) of this section has

been pledged may not be deemed to be new projects under this subsection. No new projects funded with money collected under this section may be for justice system facilities.

(c) The definitions in this section apply throughout this section.

(i) "Public facilities" means bridges, roads, domestic and industrial water facilities, sanitary sewer facilities, earth stabilization, storm sewer facilities, railroads, electrical facilities, natural gas facilities, research, testing, training, and incubation facilities in innovation partnership zones designated under RCW 43.330.270, buildings, structures, telecommunications infrastructure, transportation infrastructure, or commercial infrastructure, ~~(and)~~ port facilities in the state of Washington, or affordable workforce housing infrastructure or facilities.

(ii) "Economic development purposes" means those purposes which facilitate the creation or retention of businesses and jobs in a county, including affordable workforce housing infrastructure or facilities.

(iii) "Economic development office" means an office of a county, port districts, or an associate development organization as defined in RCW 43.330.010, which promotes economic development purposes within the county.

(iv) "Affordable workforce housing infrastructure or facilities" means housing infrastructure or facilities that a qualifying provider uses for housing for a single person, family, or unrelated persons living together whose income is no more than 120 percent of the median income, adjusted for housing size, for the county where the housing is located.

(v) "Qualifying provider" means a nonprofit entity as defined in RCW 84.36.560, a nonprofit entity or qualified cooperative association as defined in RCW 84.36.049, a housing authority created under RCW 35.82.030 or 35.82.300, a public corporation established under RCW 35.21.660 or 35.21.730, or a county or municipal corporation.

(4) No tax may be collected under this section before July 1, 1998.

(a) Except as provided in (b) of this subsection, no tax may be collected under this section by a county more than (~~twenty-five~~) 25 years after the date that a tax is first imposed under this section.

(b) For counties imposing the tax at the rate of 0.09 percent before August 1, 2009, the tax expires on the date that is (~~twenty-five~~) 25 years after the date that the 0.09 percent tax rate was first imposed by that county.

(5) For purposes of this section, "rural county" means a county with a population density of less than (~~one hundred~~) 100 persons per square mile or a county smaller than (~~two hundred twenty-five~~) 225 square miles as determined by the office of financial management and published each year by the department for the period July 1st to June 30th."

Correct the title.

Signed by Representatives Frame, Chair; Berg, Vice Chair; Walen, Vice Chair; Chopp; Harris-Talley; Morgan; Orwall; Ramel; Springer; Thai and Wylie.

MINORITY recommendation: Without recommendation. Signed by Representatives Dufault, Assistant Ranking Minority Member; Stokesbary and Vick.

MINORITY recommendation: Do not pass. Signed by Representatives Orcutt, Ranking Minority Member and Chase.

Referred to Committee on Rules for second reading.

February 24, 2022

E2SSB 5885 Prime Sponsor, Committee on Ways & Means: Concerning marine shoreline habitat. Reported by Committee on Environment & Energy

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 43.21A RCW to read as follows:

(1) The department must conduct a baseline survey of Puget Sound marine shorelines that renews oblique shoreline aerial imagery and incorporates the use of new technology to create a 360 degree on-the-water comprehensive view of the

shoreline. The initial marine oblique aerial and on-the-water imagery must be completed by June 30, 2023, and updated on a regular five-year cycle thereafter. The initial marine shoreline survey must be completed by June 30, 2024, and updated on a regular five-year cycle thereafter. The survey must document and map existing shoreline conditions, structures, and structure conditions, including structures in disrepair and structures and vessels that potentially are derelict, and must be available to the public and incorporated into state geographic information system mapping.

(2) The imaging acquired as part of the survey may be used to evaluate whether, on an aggregate basis, state programs and regulations are succeeding in meeting their objectives with regard to the health of Puget Sound. The imaging acquired as part of the survey may not be used in any civil or criminal enforcement proceeding by any state or local agency.

(3) For the purposes of this section, "Puget Sound" means the marine waters of Washington east of a line extending from Discovery Island light south to New Dungeness light and all points in the Puget Sound area including, but not limited to, the San Juan Islands and connected waterways, and the marine waters south of Admiralty Inlet, including Hood Canal, to the extent that these waters are within the territorial boundaries of Washington."

Correct the title.

Signed by Representatives Fitzgibbon, Chair; Duerr, Vice Chair; Dye, Ranking Minority Member; Klicker, Assistant Ranking Minority Member; Abbarno; Berry; Fey; Harris-Talley; Ramel; Shewmake and Slatter.

MINORITY recommendation: Do not pass. Signed by Representatives Boehnke and Goehner.

Referred to Committee on Appropriations.

February 24, 2022

SSB 5910

Prime Sponsor, Committee on Environment, Energy & Technology: Accelerating the availability and use of renewable hydrogen in Washington state. Reported by Committee on Environment & Energy

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. INTENT AND FINDINGS. (1) The legislature finds that while hydrogen fuel has been used in a variety of applications in the state, the source of hydrogen has been derived from fossil fuel feedstocks, such as natural gas. Hydrogen is an essential building block and energy carrier molecule that is necessary in the production of conventional and renewable fuels and a valuable decarbonization tool when used in sectors such as marine, aviation, steel, aluminum, and cement, as well as surface transportation including light to heavy-duty vehicles, such as transit, trucking, and drayage equipment. Hydrogen can be a carbon-free fuel with an energy per unit mass that is three to four times greater than jet fuel, whose energy can be extracted either through thermochemical (combustion) or electrochemical (fuel cell) processes. In both cases, the only by-product is water, instead of the greenhouse gases and other conventional and toxic pollutants that are emitted from using fossil fuels.

(2) The legislature further finds that the use of renewable hydrogen and hydrogen produced from carbon-free feedstocks through electrolysis is an essential tool to a clean energy ecosystem and emissions reduction for challenging infrastructure needs. Clean hydrogen fuel can be produced or "charged" closer to the generation of the electricity when the electrical supply grid has surplus energy, at times of low electricity use, such as evenings, then made available at times of higher need and convenient locations, such as fueling stations, avoiding the need to build or upgrade larger electrical infrastructure, including distribution systems, to meet higher peak demand for electricity.

(3) Therefore, the legislature intends by this act to establish policies and a framework for the state to become a national and global leader in the production and use of these hydrogen fuels. This act will create an office of renewable fuels to: Promote partnerships among industrial, transportation, agriculture, and commercial interests as well as fuel producers, the technology research sector, and public sector agencies; identify barriers to and opportunities for market development;

provide greater clarity and certainty in regulatory and siting standards; provide incentives and financial assistance in the deployment of hydrogen fuel infrastructure; support a clean and just energy transition; help create good quality, clean energy jobs; and improve air quality in degraded areas, particularly in communities that have borne disproportionate levels of air pollution from the combustion of fossil fuels.

Part 1

OFFICE OF RENEWABLE FUELS

NEW SECTION. Sec. 101. A new section is added to chapter 43.330 RCW to read as follows:

The definitions in this section apply throughout sections 102, 103, and 104 of this act unless the context clearly requires otherwise.

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

(2) "Green electrolytic hydrogen" means hydrogen produced through electrolysis and does not include hydrogen manufactured using steam reforming or any other conversion technology that produces hydrogen from a fossil fuel feedstock.

(3) "Office" means the statewide office of renewable fuels established in section 102 of this act.

(4) "Overburdened communities" has the same meaning as defined in RCW 70A.02.010.

(5) "Renewable fuel" means fuel produced using renewable resources and includes renewable hydrogen.

(6) "Renewable hydrogen" has the same meaning as defined in RCW 54.04.190.

(7) "Renewable resource" has the same meaning as defined in RCW 19.405.020.

NEW SECTION. Sec. 102. A new section is added to chapter 43.330 RCW to read as follows:

(1) The statewide office of renewable fuels is established within the department. The office shall report to the director of the department. The office may employ staff as necessary to carry out the office's duties as prescribed by this act, subject to the availability of amounts appropriated for this specific purpose.

(2) The purpose of the office is to leverage, support, and integrate with other state agencies to:

(a) Accelerate comprehensive market development with assistance along the entire life cycle of renewable fuel projects;

(b) Support research into and development and deployment of renewable fuel and the production, distribution, and use of renewable and green electrolytic hydrogen and their derivatives, as well as product engineering and manufacturing relating to the production and use of such hydrogen and its derivatives;

(c) Drive job creation, improve economic vitality, and support the transition to clean energy;

(d) Enhance resiliency by using renewable fuels and green electrolytic hydrogen to support climate change mitigation and adaptations; and

(e) Partner with overburdened communities to ensure communities equitably benefit from renewable and clean fuels efforts.

NEW SECTION. Sec. 103. A new section is added to chapter 43.330 RCW to read as follows:

(1) The office shall:

(a) Coordinate with federally recognized tribes, local government, state agencies, federal agencies, private entities, the state's public four-year institutions of higher education, labor unions, and others to facilitate and promote multi-institution collaborations to drive research, development, and deployment efforts in the production, distribution, and use of renewable fuels including, but not limited to, green electrolytic hydrogen;

(b) Review existing renewable fuels and green electrolytic hydrogen initiatives, policies, and public and private investments;

(c) Consider funding opportunities that provide for the coordination of public and private funds for the purposes of developing and deploying renewable fuels and green electrolytic hydrogen;

(d) Assess opportunities for and barriers to deployment of renewable fuels and green electrolytic hydrogen in hard to decarbonize sectors of the state economy;

(e) Request recommendations from the Washington state association of fire marshals regarding fire and other safety standards adopted by the United States department of energy and recognized national and international fire and safety code development authorities regarding renewable fuels and green electrolytic hydrogen;

(f) By December 1, 2023, develop a plan and recommendations for consideration by the legislature and governor on renewable fuels and green electrolytic hydrogen policy and public funding including, but not limited to, project permitting, state procurement, and pilot projects; and

(g) Encourage new and support existing public-private partnerships to increase coordinated planning and deployment of renewable fuels and green electrolytic hydrogen.

(2) The office may take all appropriate steps to seek and apply for federal funds for which the office is eligible, and other grants, and accept donations, and must deposit these funds in the renewable fuels accelerator account created in section 104 of this act.

(3) In carrying out its duties, the office must collaborate with the department, the department of ecology, the department of transportation, the utilities and transportation commission, electric utilities in Washington state, the Washington State University extension energy program, and all other relevant state agencies. The office must also consult with and seek to involve federally recognized tribes, project developers, labor and industry trade groups, and other interested parties, in the development of policy analysis and recommended programs or projects.

(4) The office may cooperate with other state agencies in compiling data regarding the use of renewable fuels and green electrolytic hydrogen in state operations, including motor vehicle fleets, the state ferry system, and nonroad equipment.

NEW SECTION. Sec. 104. A new section is added to chapter 43.330 RCW to read as follows:

The renewable fuels accelerator account is created in the state treasury. Revenues to the account consist of appropriations made by the legislature, federal funds, gifts or grants from the

private sector or foundations, and other sources deposited in the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for purposes designated in sections 102, 103, and 201 of this act. Only the director or the director's designee may authorize expenditures from the account.

Part 2

FEDERAL FUNDING

NEW SECTION. **Sec. 201.** (1)(a) The legislature finds that the federal infrastructure investment and jobs act, P.L. 117-58, provides \$8,000,000,000 over five years to support the development of regional clean hydrogen hubs. The federal infrastructure investment and jobs act requires the United States secretary of energy to establish a program to fund at least four regional hubs to aid in achieving a hydrogen fuel production carbon intensity standard provided in that legislation; to demonstrate the production, processing, delivery, storage, and end use of hydrogen; and that can be developed into a national network to facilitate a clean hydrogen economy. The federal infrastructure investment and jobs act requires the secretary of energy to select regional hubs that demonstrate a diversity of feedstocks, a diversity of end uses, and a diversity of geographic regions of the country. The federal infrastructure investment and jobs act requires the secretary of energy to solicit proposals for regional hubs by May 15, 2022, and to make selections of the hubs within one year after the deadline for submission of proposals.

(b) The legislature further finds that Washington state is strongly positioned to develop a regional clean energy hub meeting the criteria of the federal infrastructure investment and jobs act because the state:

(i) Has adopted a state energy strategy that recognizes hydrogen as an integral part of the state's decarbonization pathway;

(ii) Has an abundance of low cost, low carbon, reliable electricity as the primary energy resource for production of clean hydrogen;

(iii) Already has under construction the nation's first renewable hydrogen electrolyzer and has several hydrogen

fueling facilities as well as production facilities in planning and design phases;

(iv) Has multiple manufacturers designing, engineering, and manufacturing fuel cell electric engines and zero-emission vehicles, vessels, and airplanes;

(v) Has numerous industrial, maritime, and freight shipping concerns that are moving toward cleaner fuels and that would help provide demand for hydrogen, as well as state and local governments currently considering hydrogen uses;

(vi) Has a demonstrated track record of building partnerships across the public and private sector to advance clean energy technologies;

(vii) Has policies in place supporting and engaging overburdened communities, including the healthy environment for all act, which will facilitate alignment with the justice40 initiative; and

(viii) Has policies, including tax incentives, that support high labor standards in clean energy production.

(c) The legislature further finds that the state may help to promote and strengthen applications for regional hydrogen hub federal funding through state funding assistance to support a timely and competitive application to the United States department of energy by a public-private partnership entity that leverages private sector leadership and is composed of multiple interests, including public and private project developers, manufacturers and end users, research institutions, academia, government, and communities around the state.

(2) Subject to amounts appropriated for this specific purpose, the director of the department of commerce must provide support to a public-private partnership entity as described in subsection (1)(c) of this section, which may include department staff support and direct funding. The entity should:

(a) Agree to prepare a timely and responsive application for federal funding to develop a regional clean hydrogen hub in Washington state, consistent with the requirements of the federal application process and the policies and strategy of the state of Washington;

(b) Demonstrate meaningful engagement with a range of entities across the

state, including federally recognized tribes, labor unions, and communities around the state including overburdened communities, in the development of a hydrogen hub;

(c) Include entities that provide training and expand employment opportunities for the hydrogen workforce, including labor organizations, institutions of higher education, community and technical colleges, and vocational institutions; and

(d) Include specific commitments, as required by the federal application, from industries, transportation agencies, utilities, and other public and private sector entities to assist in funding the application and to develop plans to either construct infrastructure for or to incorporate, or both, the production, distribution, and end use of renewable hydrogen and green electrolytic hydrogen fuels into their transition to cleaner energy.

(3) In addition to the assistance in applying for federal funding provided through subsection (2) of this section, the legislature intends that the state fully support a regional clean energy hub in the state, including further direct financial assistance in developing the hub and the acquisition of hydrogen fuels for state agency and local government uses.

Part 3

UTILITIES AND TRANSPORTATION COMMISSION REPORT

NEW SECTION. Sec. 301. (1) By December 1, 2024, the utilities and transportation commission must submit to the appropriate committees of the senate and house of representatives a report addressing the following regarding advancing the production and use of hydrogen by private companies as an energy storage resource or fuel in the state:

(a) Whether the rates and services of hydrogen fuels distributed through natural gas distribution infrastructure is within the regulation of the utilities and transportation commission, or whether such jurisdiction should be assigned by the legislature as such regulation is provided for other public service companies, such as natural gas companies;

(b) Whether electric utilities regulated by the commission should analyze the costs and benefits of adopting special tariffs for the production of green electrolytic hydrogen and renewable hydrogen fuels;

(c) Recommended standards, including safety standards, for blending of nonfossil feedstock hydrogen into natural gas distribution infrastructure; and

(d) The role that nonfossil feedstock hydrogen may serve as the state reduces greenhouse gas emissions from fossil natural gas, including findings and recommendations included in the commission's decarbonization inquiry required under section 143, chapter 334, Laws of 2021.

(2) This section expires June 30, 2025.

Part 4

MISCELLANEOUS

NEW SECTION. Sec. 401. Sections 104 and 201 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

NEW SECTION. Sec. 402. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Correct the title.

Signed by Representatives Fitzgibbon, Chair; Duerr, Vice Chair; Dye, Ranking Minority Member; Klicker, Assistant Ranking Minority Member; Abbarno; Berry; Boehnke; Fey; Goehner; Harris-Talley; Ramel; Shewmake and Slatter.

Referred to Committee on Appropriations.

February 24, 2022

ESB 5919

Prime Sponsor, Senator Van De Wege: Concerning the standard for law enforcement authority to detain or pursue persons. (REVISED FOR ENGROSSED: Concerning the definition of "physical force," "necessary," and "totality of the circumstances," and the standard for law enforcement authority to use physical force

and providing the authority for a peace officer to engage in a vehicular pursuit when there is reasonable suspicion a person has violated the law and the officer follows appropriate safety standards.) Reported by Committee on Public Safety

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 10.116.060 and 2021 c 320 s 7 are each amended to read as follows:

(1) A peace officer may not engage in a vehicular pursuit, unless:

(a) ~~((i))~~ There is ~~((probable cause to believe))~~ reasonable suspicion that a person in the vehicle has committed or is committing a violent offense ~~((or sex offense))~~ as defined in RCW 9.94A.030, ~~((or))~~ an escape under chapter 9A.76 RCW ~~((or))~~, or

~~((ii))~~ There is reasonable suspicion a person in the vehicle has committed or is committing) a driving under the influence offense under RCW 46.61.502;

(b) ~~((The pursuit is necessary for the purpose of identifying or apprehending the person;~~

~~(c))~~ The person poses ((an imminent threat to the safety of others)) a threat of serious injury or death to another person, and the safety risks of failing to apprehend or identify the person are considered to be greater than the safety risks of the vehicular pursuit under the circumstances; ((and

~~(d)(i) Except as provided in (d)(ii) of this subsection, the officer has received authorization to engage in the pursuit from))~~

(c) The pursuing officer notifies a supervising officer ((and there)) immediately upon initiating the vehicular pursuit;

(d) There is supervisory ((control)) oversight of the pursuit ((. The officer in consultation with the)) by a supervising officer ((must consider alternatives to the vehicular pursuit. The supervisor must consider)), and the supervising officer evaluates the justification for the vehicular pursuit and other safety considerations, including but not limited to speed, weather, traffic, road conditions, and the known presence of minors in the

~~vehicle ((, and the vehicular pursuit must be terminated if any of the requirements of this subsection are not met;~~

~~((ii)) For those jurisdictions with fewer than 10 commissioned officers, if a supervisor is not on duty at the time, the officer will request the on-call supervisor be notified of the pursuit according to the agency's procedures. The officer must consider)), and considers alternatives to the vehicular pursuit ((. The justification for the vehicular pursuit, and other safety considerations, including but not limited to speed, weather, traffic, road conditions, and the known presence of minors in the vehicle. The officer must terminate the vehicular pursuit if any of the requirements of this subsection are not met.~~

~~((2) A pursuing officer shall comply));~~

(e) The pursuing officer and supervising officer comply with any agency procedures for designating the primary pursuit vehicle and determining the appropriate number of vehicles permitted to participate in the vehicular pursuit ((and comply));

(f) The supervising officer, the pursuing officer, or dispatcher notifies other law enforcement agencies or surrounding jurisdictions that may be impacted by the vehicular pursuit or called upon to assist with the vehicular pursuit, and the pursuing officer and supervising officer comply with any agency procedures for coordinating operations with other jurisdictions, including available tribal police departments when applicable;

(g) The pursuing officer is able to directly communicate with other officers engaging in the pursuit, the supervising officer, and the dispatch agency, such as being on a common radio channel or having other direct means of communication;

(h) As soon as practicable after initiating a vehicular pursuit, the pursuing officer, supervising officer, or responsible agency develops a plan to end the pursuit through the use of available pursuit intervention options, such as the use of the pursuit intervention technique, deployment of spike strips or other tire deflation devices, or other department-authorized pursuit intervention tactics; and

(i) The pursuing officer has completed an emergency vehicle operator's course,

has completed updated emergency vehicle operator training in the previous two years, and is certified in at least one pursuit intervention option.

(2) A vehicular pursuit not meeting the requirements under subsection (1) of this section must be terminated.

(3) A peace officer may not fire a weapon upon a moving vehicle unless necessary to protect against an imminent threat of serious physical harm resulting from the operator's or a passenger's use of a deadly weapon. For the purposes of this subsection, a vehicle is not considered a deadly weapon unless the operator is using the vehicle as a deadly weapon and no other reasonable means to avoid potential serious harm are immediately available to the officer.

(4) For purposes of this section, "vehicular pursuit" means an attempt by a uniformed peace officer in a vehicle equipped with emergency lights and a siren to stop a moving vehicle where the operator of the moving vehicle appears to be aware that the officer is signaling the operator to stop the vehicle and the operator of the moving vehicle appears to be willfully resisting or ignoring the officer's attempt to stop the vehicle by increasing vehicle speed, making evasive maneuvers, or operating the vehicle in a reckless manner that endangers the safety of the community or the officer.

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."

Correct the title.

Signed by Representatives Goodman, Chair; Mosbrucker, Ranking Minority Member; Davis; Griffey; Hackney; Orwall and Ramos.

MINORITY recommendation: Without recommendation. Signed by Representatives Johnson, J., Vice Chair; Klippert, Assistant Ranking Minority Member; Graham; Simmons and Thai.

Referred to Committee on Rules for second reading.

There being no objection, the bills listed on the day's supplemental and 2nd supplemental committee reports under the fifth order of business were referred to the committees so designated.

There being no objection, the House adjourned until 9:55 a.m., February 25, 2022, the 47th Legislative Day of the Regular Session.

LAURIE JINKINS, Speaker

BERNARD DEAN, Chief Clerk

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