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NO. 95586-7

SUPREME COURT OF THE STATE OF WASHINGTON

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THURSTON COUNTY, ex rel., JOHN SNAZA, THURSTON COUNTY  
SHERIFF,

Petitioners,

v.

CITY OF OLYMPIA, CITY OF LACEY, CITY OF TUMWATER and  
CITY OF YELM,

Respondents,

CITY OF TENINO,

Intervenor.

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BRIEF OF RESPONDENTS/INTERVENOR

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## I. INTRODUCTION

This is a case of statutory interpretation involving RCW 70.48.130(6), a portion of the City and County Jails Act, which governs the administration of city and county jails in the state of Washington.

Petitioner Thurston County (hereinafter, the “County”) takes the position that RCW 70.48.130(6) allows the County to charge Respondent Cities of Olympia, Lacey, Tumwater, and Yelm, and Intervenor Tenino (hereinafter, collectively, the “Cities”), for medical costs incurred by inmates housed at the County’s jail, on felony criminal charges initiated and prosecuted by the County Prosecutor, for felony crimes that are exclusively within the County’s jurisdiction.

The Cities have no jurisdiction to initiate or prosecute felony charges, and accordingly they disagree with the County’s position. Visiting Judge Amber Finlay of the Mason County Superior Court agreed with the Cities, granted summary judgment to the Cities on their counter-claim for declaratory relief, and denied the County’s cross-motion for partial summary judgment.

The Superior Court aptly applied long-standing cannons of statutory interpretation to conclude that the Cities’ interpretation of RCW 70.48.130(6) implemented the manifest objective of the Legislature—that

is, to provide counties with a partial reprieve for the uncovered medical costs of misdemeanants and gross misdemeanants charged and prosecuted by a city but housed at a county jail. The Superior Court’s order specifically declares that, “[u]nder RCW 70.48.130(6), the obligation to pay for medical costs incurred by inmates housed at the Thurston County Jail on felony charges falls on Thurston County and not on the Cities.” CP 261, ¶ 3. Because the County’s interpretation of RCW 70.48.130(6) defeats the manifest objective of the statute—in addition to other fatal shortcomings further analyzed below—the Superior Court’s ruling should be affirmed.

## II. RE-STATEMENT OF THE ISSUE

Does a county’s right to reimbursement for uncovered inmate medical costs expressed in RCW 70.48.130(6) exclude reimbursement for costs incurred for inmates arrested by a city police officer but held at a county jail under felony charges initiated by the county prosecutor?

## III. RE-STATEMENT OF THE CASE

Both the County’s unsuccessful declaratory judgment action<sup>1</sup> and the Cities’ successful counterclaims<sup>2</sup> seek an interpretation of the scope of the County’s right to reimbursement under RCW 70.48.130(6), which states:

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<sup>1</sup> CP 1-5.

<sup>2</sup> CP 10-14, 20-23, 29-33, and 39-42.

To the extent that a confined person is unable to be financially responsible for medical care and is ineligible for the authority's medical care programs under chapter 74.09 RCW, or for coverage from private sources, and in the absence of an interlocal agreement or other contracts to the contrary, the governing unit may obtain reimbursement for the cost of such medical services from the unit of government whose law enforcement officers initiated the charges on which the person is being held in the jail[.]

The parties do not dispute that the County is a "governing unit" as defined in RCW 70.48.020(6), tasked with the operation of the Thurston County Jail ("County Jail"). The dispute arises from disparate readings of the latter clauses of the statute which expressly restrict the County's right of reimbursement to situations where: (1) there is no interlocal agreement between the County and the other agency regarding the allocation of these costs; and (2) the other agency's "law enforcement officers initiated the charges on which the person is being held in the jail." RCW 70.48.130(6).

In late 2016, the County sent demand letters to the Cities of Olympia, Lacey, Tumwater, and Yelm, seeking payment in amounts up to \$174,173.28 for "medical costs incurred by inmates held at the Thurston County Jail on charges initiated by [municipal] law enforcement officers." CP 1-5 and 130. The 2016 demand letters demonstrated the County's overly broad interpretation of the scope of its right to reimbursement under RCW

70.48.130(6). As the County would have it, medical costs for all inmates booked into the County's Jail with any connection to a city are ultimately the financial responsibility of that city. CP 124-28. Enclosed with each letter were spreadsheets showing the costs for which the County was demanding payment—dating back to 2012—listed by inmate name, arresting officer, date of booking, and crime charged, among other identifiers. CP 131-49; CP 1-5. Included in the spreadsheets were costs for inmates who were:

- (1) Arrested by municipal law enforcement officers on probable cause that a felony occurred (CP 125 and 132); and
- (2) Arrested by Thurston County Sheriff Deputies on probable cause that a felony occurred, but upon arrest were identified as also facing outstanding misdemeanor warrants issued by the Cities' municipal courts (CP 125-26 and 134); and
- (3) Arrested by law enforcement officers outside the state of Washington on an outstanding felony warrant issued by Thurston County Superior Court, but upon arrest were identified as also having outstanding misdemeanor warrants issued by the Cities' municipal courts (CP 126 and 132).

Notably absent from the County's demands were costs for those arrested exclusively on misdemeanor or gross misdemeanor charges by municipal law enforcement officers. The reason for this is simple: Thurston County (unlike other counties in the state of Washington) refuses to book such misdemeanant and gross misdemeanant inmates into its jail. CP 116 and 121. While other counties will allow cities—particularly smaller cities

without their own municipal jails—to book misdemeanor and gross misdemeanor offenders, Thurston County will not.<sup>3</sup> CP 114-16, 121, and 127-28.

Thurston County also refuses to contract with the Cities for jail services. CP 114-16 and 121. By law, however, the Cities are required to book any and all persons arrested by a municipal police officer on suspicion of a felony into the County’s Jail, to await a charging decision by the County Prosecutor—these inmates cannot be booked into a City-operated jail.<sup>4</sup> CP 115-16. Similarly, the Cities play no role whatsoever in the initiating of felony charges—that is the sole jurisdiction of the County Prosecutor, who, along with the County’s Court, also dictates the length of incarceration (and, therefore, the scope of medical costs incurred).<sup>5</sup> Id.

Accordingly, the Cities refused the County’s 2016 demands for payment because the County’s interpretation of its right to reimbursement is belied by the very language of RCW 70.48.130(6), particularly when read

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<sup>3</sup> The County asserts that the Cities rejected the County’s demand for reimbursement because “the Cities’ provide and pay for jail services for their own misdemeanants.” See Brief of Petitioner at 1. This is inaccurate. Only Olympia and Lacey operate their own jail; Tumwater, Yelm and Tenino contract with various agencies to house their inmates, including but not limited to the Nisqually Tribe, which owns and operates the Nisqually Jail. CP 114-16.

<sup>4</sup> See *State v. Steever*, 131 Wn. App. 334, 338, 127 P.3d 749 (2006).

<sup>5</sup> Washington Constitution art. IV, § 6 confers original jurisdiction in superior court for felony cases. *State v. Barnes*, 146 Wn.2d 74, 86, 43 P.3d 490 (2002); *State v. Posey*, 174 Wn.2d 131, 140, 272 P.3d 840 (2012) (“[t]he superior court always retains its jurisdiction over felony offenses. This jurisdiction derives directly from the constitution.”).

in the larger context of the City and County Jails Act, Chapter 70.48 RCW, which mandates that “counties are burdened with the cost of administering the criminal laws within their boundaries.”<sup>6</sup> See CP 10-14, 20-23, 29-33, and 39-42. Instead, the Cities argue that RCW 70.48.130(6) allows those counties that have taken in *misdemeanants* and *gross-misdemeanants* arrested, charged, and prosecuted by cities a right of reimbursement for medical costs incurred by those individuals while they are housed at a county’s jail, even in the absence of an interlocal agreement between the two agencies. *Id.*

The County filed its lawsuit seeking declaratory relief in Thurston County Superior Court. CP 1-5. The parties then filed cross-motions for summary judgment, both seeking declaratory relief that favored their interpretation of RCW 70.48.130(6). CP 72-89 and 93-112. Visiting Judge Amber Finlay of the Mason County Superior Court denied the County’s motion for partial summary judgment, granted the Cities’ cross-motion for summary judgment, and dismissed the action. CP 259-61.

While the Cities acknowledge that Judge Finlay’s oral ruling below does not bind this Court on its *de novo* review, they have nonetheless clearly demonstrated the fatal deficiencies in the County’s interpretation. CP 259-61 and 287-299.

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<sup>6</sup> *State v. Agren*, 32 Wn. App. 827, 828, 650 P.2d 238 (1982).

First, the Superior Court found that the phrase “law enforcement officers [who] initiated the charges on which the person is being held in the jail” contains conflicting terms with dueling reasonable interpretations, rendering it ambiguous. CP 291-93. “Law enforcement officers clearly refer to police officers or officers of the peace, but clearly do not appear to include prosecutors,” yet the phrase “initiate the charges” does not refer to making an arrest, as “it’s clear the legislature has used the word arrest differently.” CP 292-93. Rather, “charges” refers to the act of “charg[ing] with a crime,” either “by citation or Information.” *Id.* In the case of a misdemeanor or gross misdemeanor, a police officer can charge that crime by citation; in the case of a felony, only a county prosecutor can charge that crime. CP 292-98.

Second, the Superior Court concluded that, when read in the context of the City and County Jails Act (Ch. 70.48 RCW), the Court Improvement Act (Ch. 3.50 RCW), and the Interlocal Cooperation Act (Ch. 39.34 RCW)—all of which provide relevant context to the allocation of costs between agencies—the County’s interpretation of RCW 70.48.130(6) is in conflict with that larger context and the legislative intent, which expressly allocates the costs of incarceration of misdemeanants and gross misdemeanants to cities (regardless of where the misdemeanants and gross

misdemeanants are incarcerated), and the costs of incarceration of felons to counties. CP 293-98.

This appeal by the County followed the Superior Court's Order on the parties' cross-motions for summary judgment. CP 265-274.

#### IV. ARGUMENT

##### A. This Court's Standard of Review is *De Novo*.

This case presents an issue of statutory construction, which "is a question of law and is reviewed de novo." *Cockle v. Dep't of Labor & Indus.*, 142 Wn.2d 801, 807, 16 P.3d 583 (2001) (citing *Stuckey v. Dep't of Labor & Indus.*, 129 Wn.2d 289, 295, 916 P.2d 399 (1996)). Applying well-established canons of statutory construction, the Court should uphold the decision of the Superior Court because the County's interpretation of RCW 70.48.130(6) fails to effectuate the legislative intent underlying this statute.

##### B. The County's Interpretation of RCW 70.48.130(6) Ignores the Plain Meaning of the Statute with Deference to the Legislative Intent Underlying the City and County Jails Act.

It is axiomatic that "the primary goal of statutory construction is to carry out legislative intent." *Rozner v. City of Bellevue*, 116 Wn.2d 342, 347, 804 P.2d 24 (1991). If a statute's meaning is plain, the courts must rely on that plain meaning as indicative of the legislature's intent. *Tingey v. Haisch*, 159 Wn.2d 652, 657, 152 P.3d 1020 (2007) (citing *State v. Jacobs*, 154 Wn.2d 596, 600, 115 P.3d 281 (2005)). Importantly, the plain

meaning is determined not merely from the language of the statute, but also from the meaning of the language used in the context of the entire statute in which the particular provision is found, related statutory provisions, and the statutory scheme as a whole. *Id.* (citing *Dep't of Ecology v. Campbell & Gwinn, L.L.C.*, 146 Wn.2d 1, 12, 43 P.3d 4 (2002)). The trial court rightly rejected the County's interpretation because it glosses over the plain meaning of key terms in the statute, and likewise ignores the context of RCW 70.48.130(6) as an integral part of the entirety of Ch. 70.48 RCW, the City and County Jails Act. This Court should similarly reject the County's position. CP 259-64. To disregard the import of the phrase "initiates the charges" and focus myopically on the term "law enforcement officers" to reach the conclusion that the statute means the agency employing the arresting officer bears the medical costs even of felony arrestees, violates the imperative that "[s]tatutes must be interpreted and construed so that all the language used is given effect, with no portion rendered meaningless or superfluous."<sup>7</sup> *Davis v. Dep't of Licensing*, 137 Wn.2d 957, 963, 977 P.2d

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<sup>7</sup> This is the fatal flaw in the Attorney General Opinion which forms the basis of the County's interpretation; it gives undue weight to the term "law enforcement officers" in a manner that renders the term "initiated the charges" superfluous. Op. Att'y Gen. 8 (2005) (hereinafter, "2005 AGO") (CP 81-85). While the Attorney General in that Opinion acknowledges that city police can "initiate charges" only in certain circumstances—for example, when an officer arrests a person who has committed a misdemeanor in the officer's presence—the Attorney General simultaneously and incorrectly concludes that city police officers "initiate charges" simply by arresting a defendant on a felony warrant issued on the charging decision of a county prosecutor. Op. Att'y Gen. 8 (2005), at 4 (CP 84).

554 (1999) (citing *Whatcom County v. City of Bellingham*, 128 Wn.2d 537, 546, 909 P.2d 1303 (1996)).

1. The County's interpretation of RCW 70.48.130(6) ignores the import of the use of the word "charges" rather than "arrest" in the statute.

RCW 70.48.130(6) contains multiple key words and phrases, the meaning of which the parties dispute. Notably, however, an inconsistency in the County's argument undermines the argument's credibility. First, the County concludes that "law enforcement officer" refers exclusively to a "commissioned officer with the power to arrest" because that is how the term is "consistently" used in related statutes. See Petitioner's Brief at 7 (quoting Op. Att'y Gen. 8 (2005)). Yet, when it comes to the phrase "initiated the charges," the County foregoes analysis of any related statutes and relies instead only on Webster's Dictionary. *Id.* at 17-18.

The County's singular reliance on the dictionary is misplaced where the operative terms are defined in the larger context of the City and County Jails Act, Chapter 70.48 RCW, and the larger statutory scheme underlying the parties' roles. See *Anderson v. Morris*, 87 Wn.2d 706, 716, 558 P.2d 155 (1976) (holding legislative intent is to be determined in the context of the entire statute, interpreted in terms of the statute's general purpose) (citing *Graham v. State Bar Ass'n*, 86 Wn.2d 624, 627, 548 P.2d 310 (1976); *Greenwood v. State Bd. for Community College Educ.*, 82 Wn.2d 667, 671,

513 P.2d 57 (1973)). The Legislature’s use of the phrase “initiated the charges” is significant, and it must be “given effect, with no portion rendered meaningless or superfluous.” See *Davis*, 137 Wn.2d at 963 (citing *Whatcom County*, 128 Wn.2d at 546). The County’s interpretation belies the doctrine that determining the plain meaning of a statute may necessitate review of “all that the Legislature has said in the statute and related statutes which disclose legislative intent about the provision in question.” *Campbell & Gwinn, L.L.C.*, 146 Wn.2d at 11.

Notably, throughout the City and County Jails Act, Chapter 70.48 RCW, the terms “charge,” “charges” and “charged” are used consistently to refer to the charges actually filed against the individual, as distinguished from the mere act of arresting prior to booking a person into jail. See RCW 70.48.390; RCW 70.48.130(7). The Court can infer, therefore, that “arresting” and/or “booking” a person have different meanings than “charging” that same person. *Henson v. Santander Consumer USA Inc.*, 582 U.S. \_\_\_, 137 S. Ct. 1718, 198 L. Ed. 2d 177 (2017) (holding the presumption that identical words used in different parts of the same statute carry the same meaning (citing *IBP, Inc. v. Alvarez*, 546 U.S. 21, 34, 126 S. Ct. 514, 163 L. Ed. 2d 288 (2005))), extends to words used in neighboring provisions in the same Act). Importantly here, not all persons arrested are actually charged.

By way of one example, in pertinent part, RCW 70.48.390 instructs:

A governing unit may require that each person who is **booked** at a city, county, or regional jail pay a fee based on the jail's actual booking costs or one hundred dollars.

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If the person has no funds at the time of booking or during the period of incarceration, the sheriff or police chief may **notify the court in the county or city where the charges related to the booking are pending**, and may request the assessment of the fee. Unless the person is held on other criminal matters, if the person is not **charged**, is acquitted, or if all **charges** are dismissed, the sheriff or police chief shall return the fee to the person at the last known address listed in the booking records. [Emphases added.]

Similarly, RCW 70.48.130(7) states:

There shall be no right of reimbursement to the governing unit from units of government whose law enforcement officers **initiated the charges** for which a person is being held in the jail for care provided **after the charges are disposed of by sentencing or otherwise**, unless by intergovernmental agreement pursuant to chapter 39.34 RCW. [Emphases added.]

In this context, the Legislature plainly distinguished the acts of arresting, holding, and transporting a person to jail where he or she is then booked, from the separate act of charging that individual with a crime. The courts have likewise perpetuated that distinction. See e.g. *In re J.L.*, 140

Wn. App. 438, 448, 166 P.3d 776 (2007) (holding that “due process rights include the initiation of criminal action by filing of charges by the prosecutor”) (emphases added); *In re Rebecca K.*, 101 Wn. App. 309, 2 P.3d 501 (2000) (holding that “criminal contempt proceedings must be initiated by a criminal information filed by the State in order to comply with due process”) (emphasis added). The use of the word “charges” as it appears in RCW 70.48.130(6) must be afforded the same meaning. *Henson*, 137 S. Ct. at 1722-23 (2007); *Davis*, 137 Wn.2d at 963 (citing *Whatcom County*, 128 Wn.2d at 546).

In addition, the import of the Legislature’s choice of the word “charges” in RCW 70.48.130(6) is evidenced by its larger, commonly understood legal meaning. “If the legislature uses a term well known to the common law, it is presumed that the legislature intended it to mean what it was understood to mean at common law.” *State v. Dixon*, 78 Wn.2d 796, 804, 479 P.2d 931 (1971); see also *Fransen v. State Bd. of Natural Resources*, 66 Wn.2d 672, 674-75, 404 P.2d 432 (1965). For example, in Chapter 10.31 RCW, Warrants and Arrests, at RCW 10.31.100, the term “arrest”—an authorized act of a police officer—is consistently differentiated from “charges:”

A police officer having probable cause to believe that a person has committed or is

committing a felony shall have the authority to arrest the person without a warrant.

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(16)(a) Except as provided in (b) of this subsection, a police officer shall arrest and keep in custody, until release by a judicial officer on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that the person has violated RCW 46.61.502 or 46.61.504 or an equivalent local ordinance and the police officer: . . . (ii) has knowledge, based on a review of the information available to the officer at the time of arrest, that the person is charged with or is awaiting arraignment for an offense that would qualify as a prior offense as defined in RCW 46.61.5055 if it were a conviction.

RCW 10.31.100, and subpart (16)(a) thereto (emphases added). The County has failed to meet its burden to rebut the presumption that the operative term “charges” used in different parts of the City and County Jails Act and related legislation carry the same meaning. *See Henson*, 137 S. Ct. at 1722-23 (2017) (citing *IBP, Inc.*, 546 U.S. at 34 (2005) (holding “petitioners have not rebutted the presumption that identical words in the same statute carry the same meaning.”)).

2. Only a county prosecutor may initiate felony charges, while a municipal law enforcement officer may initiate misdemeanor and gross misdemeanor charges.

Likewise, the County disregards the Legislature’s purposeful use of the phrase “initiate the charges” in RCW 70.48.130(6), and instead

substitutes a broad dictionary definition that suits its purposes. The phrase “initiate the charges” is a term of art in the criminal law context, as the County readily conceded in briefing to the trial court and in its brief on appeal. CP 227-28. Because “charges” refers not to an arrest but to the criminal charges filed against an individual, the Court should look to the process by which “charges” are “initiated” to ascertain its meaning, as the Legislature is “presumed to have full knowledge of existing statutes affecting the matter upon which they are legislating.” *Martin v. Triol*, 121 Wn.2d 135, 148, 847 P.2d 471 (1993) (quoting *Bennett v. Hardy*, 113 Wn.2d 912, 926, 784 P.2d 1258 (1990) (internal quotation marks omitted)).

A police officer may only initiate charges (defined in common law and Chapter 70.48 RCW as the charges actually filed by the prosecutor against the individual) if the crime committed is a misdemeanor and/or gross misdemeanor. See generally RCW 10.37.015; CrRLJ 2.1; *City of Auburn v. Brooke*, 119 Wn.2d 623, 629, 836 P.2d 212 (1992) (holding that “the citation charging procedure [set out in CrRLJ 2.1(b), applicable to misdemeanor and gross misdemeanors only] permits officers to initiate prosecutions.”).

Only county prosecutors may initiate felony charges. See Const. art. IV, § 6 (superior court has original jurisdiction over all criminal cases amounting to felony). RCW 39.34.180(1) expressly states as follows:

Each county, city, and town is responsible for the prosecution, adjudication, sentencing, and incarceration of misdemeanor and gross misdemeanor offenses committed by adults in their respective jurisdictions, and referred from their respective law enforcement agencies, whether filed under state law or city ordinance . . . . Nothing in this section is intended to alter the statutory responsibilities of each county for the prosecution, adjudication, sentencing, and incarceration for not more than one year of felony offenders, nor shall this section apply to any offense initially filed by the prosecuting attorney as a felony offense or an attempt to commit a felony offense.

See also RCW 9.94A.411. It is well-settled that “[t]he prosecuting attorney’s office, not the police, determines whether a felony or misdemeanor will be charged.” *State v. Terrell*, 38 Wn. App. 187, 189–90, 684 P.2d 1318 (1984); see also *State v. Thompson*, 58 Wn.2d 598, 606, 364 P.2d 527 (1961) (holding that “[t]he police record or booking is not the charge upon which a defendant goes to trial”); see also *Youker v. Douglas Cty.*, 162 Wn. App. 448, 467, 258 P.3d 60 (2011) (holding that “the action of the prosecutor was a superseding intervening cause that would limit any liability for false arrest and false imprisonment [against the County and its Sheriff] to damages accruing before criminal charges were filed by a fully informed prosecutor”) (quoting *Townes v. City of New York*, 176 F.3d 138, 147 (2d Cir. 1999) (“[i]t is well settled that the chain of causation between

a police officer's unlawful arrest and a subsequent conviction and incarceration is broken by the intervening exercise of independent judgment") (internal quotation omitted).

Procedurally, felony charges must be initiated by the county prosecutor by means of an information, or grand jury indictment. See generally Const. art. I, §§ 25 and 26; RCW 10.37.015; CrR 2.1; JuCR 7.2. In this context, while individuals may be arrested by a police officer, only the county prosecutor makes a charging decision and files an information or seeks an indictment. *Id.* While the arresting officer may play some role in gathering evidence for the county prosecutor, that officer cannot—as a matter of law—dictate to the county prosecutor the charges to be initiated, or even whether charges will be initiated. *Id.*

An important exception to this tenet exists for misdemeanor or gross misdemeanor charges, which are either initiated by a complaint issued by the prosecutor, or by a citation and notice issued by an arresting officer. See generally RCW 10.37.015; CrRLJ 2.1. Stated plainly, a police officer is delegated the limited authority to initiate misdemeanor or gross misdemeanor charges, and this is a division of authority that the Legislature is presumed to understand when drafting and adopting laws governing criminal procedure. *Id.* This is reflected in the criminal rules which expressly carve out an important exception for misdemeanors and gross

misdemeanors from the standard requirement that “all criminal proceedings shall be initiated by a complaint [filed by a prosecutor].” CrRLJ 2.1(a)(1) and (b); see also *Brooke*, 119 Wn.2d at 629.

No comparable provision exists for felonies, all of which may only be charged by a county prosecutor. RCW 10.37.015(1) (“No person shall be held to answer in any court for an alleged crime or offense, unless upon an information filed by the prosecuting attorney, or upon an indictment by a grand jury, except in cases of misdemeanor or gross misdemeanor before a district or municipal judge[.]”); Const. art. IV, § 6.

The Legislature is presumed to have understood criminal procedure and its governing statutes when it adopted RCW 70.48.130(6), and that presumption undermines the County’s interpretation. *Martin*, 121 Wn.2d at 148 (quoting *Bennett*, 113 Wn.2d at 926) (internal quotation marks omitted). The plain language of RCW 70.48.130(6) provides the County with a *partial* reprieve for uncovered medical costs for inmates housed at the County’s Jail when those inmates are facing charges initiated by another agency’s law enforcement officials—namely, misdemeanants and gross misdemeanants charged by municipal police officers. RCW 70.48.130(6) does not, however, provide the County with a similar reprieve for uncovered medical costs for inmates housed at the County’s Jail facing felony charges initiated and controlled by the County Prosecutor.

3. The County’s interpretation of RCW 70.48.130(6) belies the legislative purpose of the City and County Jails Act and related legislation.

Under the plain textual reading of the statute—inclusive of the larger Act and related statutes—RCW 70.48.130(6) cannot mean what the County asserts. See *Tingey*, 159 Wn.2d. at 657 (citing *Campbell & Gwinn, L.L.C.*, 146 Wn.2d at 12). However, even if the Court agrees with the trial court that the statute is ambiguous because more than one interpretation of the plain language is reasonable, the dismissal of the County’s action should be affirmed. See *Bostain v. Food Exp., Inc.*, 159 Wn.2d 700, 708, 153 P.3d 846 (2007) (holding that if statutory language is susceptible to more than one reasonable interpretation, it is ambiguous; the court resolves ambiguity by resort to other indicia of legislative intent and principles of statutory construction) (citing *Jacobs*, 154 Wn.2d at 600, ¶ 7). Applying the canons of statutory interpretation here, only the Cities’ interpretation “best advances the legislative purpose” underlying the statute. See *In re Matter of R*, 97 Wn.2d 182, 187, 641 P.2d 704 (1982) (also holding “the spirit and intent of the law should prevail over the letter of the law.”).

The fundamental directive in Washington remains that “counties are burdened with the cost of administering the criminal laws within their boundaries.” *Agren*, 32 Wn. App. at 828. Importantly, under the City and County Jails Act:

[T]he duty of a county to provide jail services (booking arrestees and housing prisoners when confined to the county jail) has never varied based on whether the officer making the arrest is a county officer (the sheriff or a sheriff's deputy), a city or town officer, or an officer on the state payroll.

Op. Att'y Gen. 4 (2004), at 3 (CP 340). "These officers have concurrent or at least overlapping jurisdiction to enforce the criminal laws" and "the financial responsibility of the county does not depend on whether a person was arrested for committing a felony or a misdemeanor," nor who the arresting officer may be. *Id.* As applied, the County's interpretation directly conflicts with this doctrine.

The Superior Court deftly parsed the legislative history underlying RCW 70.48.130(6) to reach its conclusion. CP 292-98. First, the Court Improvement Act of 1984, codified at Chapter 3.50 RCW, was an intentional decision by the Legislature to allocate certain costs to cities resulting from the repeal of criminal codes by certain cities in an effort to shift the burden of prosecution onto the counties. *Id.*; see *City of Medina v. Primm*, 160 Wn.2d 268, 275, 157 P.3d 379 (2007) (discussing the Court Improvement Act of 1984, which relieved the financial burden on counties by making cities financially responsible for the costs arising from the repeal of municipal criminal codes and the termination of municipal courts).

As the Superior Court's decision details, the Court Improvement Act of 1984 was followed by the enactment of RCW 39.34.180(1), a section of the Interlocal Cooperation Act, which reiterated that:

Each county, city, and town is responsible for the prosecution, adjudication, sentencing, and incarceration of misdemeanor and gross misdemeanor offenses committed by adults in their respective jurisdictions, and referred from their respective law enforcement agencies, whether filed under state law or city ordinance, and must carry out these responsibilities through the use of their own courts, staff, and facilities, or by entering into contracts or interlocal agreements under this chapter to provide these services. . . .

(Emphasis added); CP 296-97. Importantly, the next sentence of the statute demonstrates clear legislative intent to perpetuate the difference in allocation of costs between those attributable to misdemeanants and gross misdemeanants on the one hand, and those attributable to felons on the other.

Nothing in this section is intended to alter the statutory responsibilities of each county for the prosecution, adjudication, sentencing, and incarceration for not more than one year of felony offenders, nor shall this section apply to any offense initially filed by the prosecuting attorney as a felony offense or an attempt to commit a felony offense.

RCW 39.34.180(1) (emphases added). Because medical costs are costs of incarceration under RCW 70.48.130, this same intentional distinction

applies to RCW 70.48.130(6). See CP 297-98. The Legislature explicitly allocated to cities the costs of incarceration for misdemeanants and gross misdemeanants charged by the cities, *even if these individuals are housed in another agency's jail. Id.*; RCW 39.34.180(1).

RCW 70.48.130(6) was adopted in this same context, and by its enactment the Legislature honored its commitment to both counties and cities—even absent an interlocal agreement between agencies allocating incarceration costs, counties are entitled to reimbursement from cities for the cost of housing inmates charged with misdemeanors and gross misdemeanors by those cities. CP 297-98; see e.g. RCW 39.34.180(1). The County's interpretation of RCW 70.48.130(6) belies this framework, and should accordingly be rejected.

4. The County's interpretation of RCW 70.48.130(6) fails to harmonize the terms of the statute and renders key phrases irrelevant.

As discussed above, the County's interpretation improperly renders the key phrase "initiates the charges" within RCW 70.48.130(6) irrelevant and meaningless. See *Whatcom County*, 128 Wn.2d at 546. Where the Legislature chooses a term with a specific meaning, the Court should enforce the statute so as to not render that term meaningless. *Cockle*, 142 Wn.2d at 809.

Even beyond that, however, the application of the County's position renders the statutory phrase "in the absence of an interlocal agreement or other contracts to the contrary" superfluous. RCW 70.48.130(6); see *Cockle*, 142 Wn.2d at 809. If, as the County contends, RCW 70.48.130(6) gives the County a virtually absolute right to reimbursement from the arresting agency (regardless of the crime charged), the Court must ask why any county would give up that right via a contract with a municipality? Under what circumstances would such a contract ever exist?

Moreover, because of the sole authority counties have over felony charges, city police officers are required to remit individuals arrested for crimes that may constitute felonies to county jails—they cannot book them into their own jails. See *Steever*, 131 Wn. App. at 338. Similarly, cities do not play any role in the charging decision, decision to release on bail, or the length of sentence for felony crimes—these decisions are in the counties' sole control. In essence, under the County's interpretation, cities would be on the hook for medical costs for all individuals their officers are duty-bound to arrest. As applied, the County's interpretation would result in the County only being responsible for inmate medical costs in cases where a felony arrest is made by the Thurston County Sheriff's Office—a staggering discount on the County's otherwise plenary statutory responsibility for the cost to incarcerate felons. CP 124-49 and 356-76.

In contrast, the Cities' interpretation of RCW 70.48.130(6) gives full meaning to all operative terms. Under the Cities' interpretation, where a county and a city cannot contractually agree to the scope and terms for the county's reprieve, RCW 70.48.130(6) affords the county an absolute right of reimbursement for uncovered medical costs for those inmates housed at the county's jail on city misdemeanor and gross misdemeanor charges. This is consistent with the terms of RCW 39.34.180(1), which expressly allocates the costs of incarceration for misdemeanants and gross misdemeanants to cities.

Unlike many other counties in Washington, Thurston County does not allow cities located within the County to confine municipal misdemeanor or gross misdemeanor offenders at the County Jail. CP 115-16 and 121-22. As a result, there are no inmates confined at the County Jail as a courtesy (contractual or otherwise) to the Cities. *Id.* If a person is arrested for both felony and misdemeanor charges, the County has the right first to initiate felony charges. *Id.* at 114-16; see Steever, 131 Wn. App. at 338. In Thurston County, any person solely arrested on a municipal charge is confined at a municipal jail (or released) to await prosecution by the responsible city. CP 114-16.

Relevant to this matter, the County is seeking payment from the Cities for the costs to confine inmates facing County-initiated felony

charges at the County Jail, simply because the inmates *might* later face misdemeanor charges initiated by one of the Cities once the inmate is no longer in the County’s custody. No reasonable interpretation of RCW 70.48.130(6) would entitle the County to this financial windfall.

C. Only the Cities’ Interpretation of RCW 70.48.130(6) Avoids Absurd, Unreasoned Consequences.

Another key tenet of statutory interpretation cautions that the Court must avoid the “strained, unlikely, or absurd consequences” that will absolutely result from the County’s reading of RCW 70.48.130(6). See *State v. Neher*, 112 Wn.2d 347, 351, 771 P.2d 330 (1989). Principally, “interpretations of a statute which would produce absurd results are to be avoided if alternative interpretations consistent with the legislative purpose are available.” *Griffin v. Oceanic Contractors*, 458 U.S. 564, 575, 102 S. Ct. 3245, 73 L. Ed. 2d 973 (1982) (citing *United States v. American Trucking Assns., Inc.*, 310 U.S. 534, 542-543, 60 S. Ct. 1059, 84 L. Ed. 1345 (1940) and *Haggar Co. v. Helvering*, 308 U.S. 389, 394, 60 S. Ct. 337, 84 L. Ed. 340 (1940)).

First, the County’s position runs contrary to the realities of jail operation. Thurston County Jail—like its counterparts in all other counties—screens arrestees at booking for medical concerns. CP 126-27 and 151-53. The County can reject an arrestee presented for booking based

on a medical condition, and leave him or her in the custody of the arresting officer for transport to a medical facility for treatment. *Id.* With that in mind, the County's practice contradicts the assertion that RCW 70.48.130(6) "places ultimate responsibility for medical care on the agency whose officers have made the arrest leading to the imprisonment of the detainee, whether the medical expenses are incurred before or after the detainee is formally booked into the jail." Op. Att'y Gen. 8 (2005), at 4-5 (CP 84-5) (emphasis added). If this is truly the scope of the County's reprieve, why then does the County reject arrestees with medical issues, so as to avoid financial responsibility for any pre-booking expenses? CP 126-27 and 151-53. The County's position is at odds with its own screening process. Further, the County's interpretation could cause a city police officer to decline to arrest a sick or injured felony offender due to the unbudgeted medical expenses that would be incurred by his or her city.

Second, the County's opinion of when the Cities "initiated the charges" under RCW 70.48.130(6) is a vague and moving target. By its own admission, however, the County seeks remuneration for inmates with only the barest of connections (if any) to the Cities. CP 1-5, 72-80, and 124-50. Endorsing the County's interpretation would be tantamount to an endorsement of an unreasonably expansive right to reimbursement that is wholly inconsistent with the legislative purpose underlying the statute.

For example, the County believes it is entitled to repayment even for uncovered medical costs incurred by an inmate who was arrested by a city police officer, and for whom uncovered medical costs are incurred after the inmate was charged with a felony by a County prosecutor and then prosecuted by a County prosecutor, convicted by a County judge, released, and then subsequently arrested by a County Sheriff's officer on a County warrant for violating the "court-ordered conditions of release." CP 227-29. Although the City's police officer may have first identified a criminal act and made an arrest, the County has sole jurisdiction to keep the individual in jail, prosecute him or her, place conditions on his or her release, and to issue and pursue a warrant for violations of said conditions. See Steever, 131 Wn. App. at 338. The County's strained interpretation gives it an indefensible *carte blanche*, with no expiration.

Third, in practice, the County's interpretation could discourage City police officers from arresting felony suspects entirely. As a matter of law and fact, cities are not permitted to confine persons arrested for felonies at city jails, because these individuals are under the sole jurisdiction of counties. CP 114-16; see Steever, 131 Wn. App. at 338. Because county prosecutors are the sole entities authorized to prosecute felonies, the County's proffered interpretation could have a chilling effect on the arrest of felony offenders across Washington.

D. The Court Should Decline to Follow the 2005 Attorney General Opinion.

The County's Brief essentially boils down to one argument: this Court should wholesale adopt the conclusions of an Attorney General Opinion ("AGO") because, "the Attorney General has already performed an analysis as to the meaning of RCW 70.48.130 and further inquiry does not seem necessary." Petitioner's Brief at 14. The County assigns error to the Superior Court's reasoned dismissal of the internally inconsistent 2005 AGO, which concluded that an arrest made by a city police officer triggers that officer's agency's obligation to pay for the inmate's medical care, regardless of the type of charges actually brought. In light of the deficiencies in the 2005 AGO identified by the Superior Court, the County's reliance on the 2005 AGO is misplaced.

Without question, an opinion from the Attorney General is not binding on the courts. *White v. State*, 49 Wn.2d 716, 725, 306 P.2d 230 (1957). Indeed, this Court has "frequently declined to follow opinions of the Attorney General," for a variety of reasons, including the constraints of "reason, legislative history, or other rules of statutory construction." *Davis v. King Cty.*, 77 Wn.2d 930, 933, 468 P.2d 679, 681 (1970) (rejecting an AGO as conflicting with prior opinion); *Kasper v. Edmonds*, 69 Wn.2d 799, 805-6, 420 P.2d 346 (1966) (rejecting AGO, citing contrary statutory

interpretation supported by reason and logic); *Huntworth v. Tanner*, 87 Wash. 670, 152 P. 523 (1915); *State ex rel. Bonsall v. Case*, 172 Wash. 243, 19 P.2d 927 (1933); *Ernst v. Kootros*, 196 Wash. 138, 82 P.2d 126 (1938); *State ex rel. Blume v. Yelle*, 52 Wn.2d 158, 324 P.2d 247 (1958); *Electric Lightwave, Inc. v. Wash. Independent Telephone Ass'n*, 123 Wn.2d 530, 542, 869 P.2d 1045 (1994); *American Legion, Post No. 32 v. City of Walla Walla*, 116 Wn.2d 1, 9, 802 P.2d 784 (1991).

While it may be true that opinions of the Attorney General in construing statutes are entitled to some deference in the determination of legislative intent, this Court is not handcuffed to the internally inconsistent opinion prepared in 2005 by an Assistant Attorney General that defies both reason and the canons of statutory construction, and was subsequently and intentionally repudiated by the Legislature. Importantly, the Court “give[s] less deference to such opinions when they involve issues of statutory interpretation” because “[t]he court remains the final authority on the proper construction of a statute.” *Washington Fed’n of State Employees, Council 28, AFL-CIO v. Office of Fin. Mgmt.*, 121 Wn.2d 152, 164, 849 P.2d 1201 (1993) (citing *American Legion Post No. 32*, 116 Wn.2d at 9 (rejecting AGO interpretation of statutory term “primarily”)); *Davis*, 77 Wn.2d at 934 (rejecting AGO resolution of apparently conflicting statutes).

1. The 2005 Attorney General Opinion is internally inconsistent.

First, the 2005 AGO that forms the basis of the County's interpretation gives undue weight to the term "law enforcement officers" in a manner that renders the term "initiated the charges" superfluous. See *Whatcom County*, 128 Wn.2d at 546 (interpretation should avoid rendering words and phrases within a statute irrelevant and meaningless); see also *Huntworth*, 87 Wash. at 679 (declining to adopt an AGO, where, "to adopt the theory of the Attorney General, we would have to reject other rules of statutory construction.").

The portion of the 2005 AGO quoted in the Petitioner's Brief at page ten demonstrates this fatal error clearly—to "analyze" (to use the County's term) the phrase "initiated the charges," the Attorney General merely rejected the interpretation that that phrase could refer to the filing of an Information by a prosecuting attorney because "law enforcement officer" does not refer to a prosecutor. Op. Att'y Gen. 8 (2005), at 3-4 (CP 83-84). Instead of considering that the statute was ambiguous because it used two conflicting terms of art, the Attorney General gave weight to one term and deliberately ignored the one that did not support the Attorney General's conclusion, thereby violating a tenet of statutory construction. See *Whatcom County*, 128 Wn.2d at 546.

Even further, while the 2005 AGO acknowledges that city police can “initiate charges” only in certain circumstances—for example, when an officer arrests a person who has committed a misdemeanor in the officer’s presence—it simultaneously concludes that city police officers “initiate charges” simply by arresting a defendant on a felony warrant issued on the charging decision of a county prosecutor. Op. Att’y Gen. 8 (2005), at 3 (CP 83). These inconsistencies undermine any persuasive authority the 2005 AGO may have had. See Ernst, 196 Wash. at 143 (“We are unable to follow . . . the opinion of the attorney general of this state . . . . To do so would be to thrust aside all other important rules of statutory construction.”) (internal citation omitted).

2. The 2005 Attorney General Opinion promotes strained and absurd consequences, which contradict longstanding practices.

But beyond these textual inconsistencies, the 2005 AGO conflicts with the realities of jail operation and the way in which both cities and counties across the state have interpreted RCW 70.48.130(6) since its adoption. See Kasper, 69 Wn.2d at 805-6 (rejecting an AGO as binding, where, for a lengthy period of time after adoption of the relevant statute, “it was generally and logically assumed” by the public that the statute’s meaning was not the meaning promulgated by the AGO).

First, decades of practice by the County—and indeed counties across the State—belie the conclusions of the 2005 AGO upon which the County relies. Indeed, for many years after the adoption of the relevant provision, the County footed the bill for the medical costs of felony inmates, including those arrested by and booked into its jail by municipal police officers. CP 121, 124, and 130. It is unclear what caused a shift in the County’s interpretation of its right to reimbursement under RCW 70.48.130(6) in or around the year 2016. This longstanding course of conduct and implicit concession by the County, particularly when buttressed by the other bases for rejecting the 2005 AGO, supports a decision to decline to follow the Attorney General’s conclusions. See Kasper, 69 Wn.2d at 805-6; see also Case, 172 Wn. at 247 (rejecting an AGO as contradicted by relevant cases and “reason”).

Second, as discussed above, the 2005 AGO and the County’s position run contrary to common jail practices, such as pre-booking medical screening of inmates. CP 126-27 and 151-53. The County’s interpretation renders the commonplace screening process—utilized by the County for decades—unnecessary. See Kasper, 69 Wn.2d at 805-6.

3. The Legislature repudiated the 2005 Attorney General Opinion.

Yet another basis for rejecting the unreasoned conclusions in the 2005 AGO is found in the Legislature's express repudiation of those conclusions. *Cockle*, 142 Wn.2d at 812 (weight given to the interpretation of the Attorney General only if it is not contrary to legislative intent). In 2007, the Legislature nullified the 2005 AGO by amending the statutory language to read that "the governing unit may obtain reimbursement for the cost of such medical services from the unit of government (~~(whose law enforcement officers)~~) that initiated the charges for which a person is being held in the jail." Appendix A, Excerpts from Engrossed Second Substitute S.B. 5930, Laws of 2007, ch. 259, § 66. This simple amendment evidenced the Legislature's disapproval of the 2005 AGO, which focused on the removed phrase as the sole basis to conclude that the arresting officer's agency was on the hook for inmate medical costs. *See, e.g., Bowles v. Dep't of Ret. Sys.*, 121 Wn.2d 52, 63-64, 847 P.2d 440 (1993) (court shall presume that the Legislature is aware of formal opinions issued by the Attorney General, and a failure to amend the statute in response to the formal opinion may, in appropriate circumstances, be treated as a form of legislative acquiescence in that interpretation).

Notably, the 2007 amendment was but a small part of a larger affordable health care bill that expired in 2009, and upon expiration, the phrase “law enforcement officers” was resurrected, likely inadvertently. It would make little sense to conclude that the Legislature specifically intended to provide cities with a two-year reprieve from such felony medical costs, but to otherwise hold cities responsible for such costs.

4. The 2005 Attorney General Opinion conflicts with prior Attorney General Opinions on related topics.

The 2005 AGO can additionally be set aside because the conclusions reached substantively conflict with those asserted in prior opinions of the Attorney General. It is axiomatic that opinions may receive less deference if they contradict prior opinions of the Attorney General. *See Five Corners Family Farmers v. State*, 173 Wn.2d 296, 308-09, 268 P.3d 892 (2011); *Davis*, 77 Wn.2d at 933 (addressing inconsistent formal attorney general opinions).

The fundamental conclusions of both a 1980 AGO and a 2004 AGO rest on the sound premise that city police officers do not “initiate” charges merely by arresting a suspect charged with a felony. Op. Att’y Gen. 21 (1980) (CP 345-46); Op. Att’y Gen. 4 (2004) (CP 338-43). Similarly, a 1988 AGO plainly states that “counties may not charge for the booking, jailing, and prosecution of state misdemeanor violators arrested by city or

town police officers.” Op. Att’y Gen. 9 (1988), at 3 (CP 349-54). As the 1980 AGO points out, in Washington, arrests may be made by Washington State Patrol officers, officers with a county sheriff’s department, municipal agencies, and even private citizens who are first-hand witnesses to the commission of a crime. Op. Att’y Gen. 21 (1980), at 2 (CP 346). The 1980 AGO concludes that the Legislature likely did not intend for a county to be entitled to recover the costs of housing an inmate from these groups, simply because an arrest was made. *Id.*

While these opinions are focused on issues other than the statute in question here, the aforementioned comments demonstrate a disparate take on the operative terms at issue in RCW 70.48.130(6)—“initiate” and “charges.” To that end, all three preceding opinions are squarely at odds with the conclusions reached in the 2005 AGO, further diminishing even its persuasive value. See *Davis*, 77 Wn.2d at 933.

## V. CONCLUSION

This Court should affirm the trial court and rule that, under RCW 70.48.130(6), the obligation to pay for medical costs incurred for inmates housed at the Thurston County Jail on felony charges squarely falls on the County and not the Cities.

RESPECTFULLY SUBMITTED this 2<sup>nd</sup> day of July, 2018.

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## DECLARATION OF SERVICE

I, Margaret C. Starkey, declare and state:

1. I am a citizen of the State of Washington, over the age of eighteen years, not a party to this action, and competent to be a witness herein.

2. On the 2<sup>nd</sup> day of July, 2018, I sent for service a true copy of the foregoing *Brief of Respondents/Intervenor* on the following using the method of service indicated below:

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I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 2<sup>nd</sup> day of July, 2018, at Issaquah, Washington.

  
 Margaret C. Starkey

CERTIFICATION OF ENROLLMENT

**ENGROSSED SECOND SUBSTITUTE SENATE BILL 5930**

Chapter 259, Laws of 2007

(partial veto)

60th Legislature  
2007 Regular Session

BLUE RIBBON COMMISSION ON HEALTH CARE COSTS AND ACCESS--  
IMPLEMENTING RECOMMENDATIONS

EFFECTIVE DATE: 07/22/07 - Except sections 18 through 22, which become effective 01/01/09; and section 30, which becomes effective 05/02/07.

Passed by the Senate April 21, 2007  
YEAS 31 NAYS 17

BRAD OWEN

**President of the Senate**

Passed by the House April 20, 2007  
YEAS 63 NAYS 35

FRANK CHOPP

**Speaker of the House of Representatives**

Approved May 2, 2007, 10:36 a.m., with the exception of sections 59 and 74 which are vetoed.

CHRISTINE GREGOIRE

**Governor of the State of Washington**

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE SENATE BILL 5930** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

**Secretary**

FILED

May 3, 2007

**Secretary of State  
State of Washington**

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**ENGROSSED SECOND SUBSTITUTE SENATE BILL 5930**

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AS RECOMMENDED BY THE CONFERENCE COMMITTEE

Passed Legislature - 2007 Regular Session

**State of Washington                      60th Legislature                      2007 Regular Session**

**By** Senate Committee on Ways & Means (originally sponsored by Senators Keiser, Kohl-Welles, Shin and Rasmussen; by request of Governor Gregoire)

READ FIRST TIME 03/05/07.

1            AN ACT Relating to providing high quality, affordable health care  
2 to Washingtonians based on the recommendations of the blue ribbon  
3 commission on health care costs and access; amending RCW 7.70.060,  
4 70.83.040, 43.70.110, 70.56.030, 48.41.110, 48.41.160, 48.41.200,  
5 48.41.037, 48.41.100, 48.41.120, 48.43.005, 48.41.190, 41.05.075,  
6 70.47.020, 70.47.060, 48.43.018, 43.70.670, 41.05.540, 70.38.015,  
7 70.38.135, 70.47A.030, 43.70.520, and 70.48.130; reenacting and  
8 amending RCW 42.56.360; adding new sections to chapter 41.05 RCW;  
9 adding new sections to chapter 74.09 RCW; adding new sections to  
10 chapter 43.70 RCW; adding a new section to chapter 70.83 RCW; adding a  
11 new section to chapter 48.20 RCW; adding a new section to chapter 48.21  
12 RCW; adding a new section to chapter 48.44 RCW; adding a new section to  
13 chapter 48.46 RCW; adding a new section to chapter 48.43 RCW; adding a  
14 new section to chapter 70.47A RCW; adding a new chapter to Title 70  
15 RCW; adding a new chapter to Title 43 RCW; repealing RCW 70.38.919;  
16 repealing 2006 c 255 s 10 (uncodified); prescribing penalties;  
17 providing effective dates; providing expiration dates; and declaring an  
18 emergency.

19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

1 the purposes of sections 60 through 65 of this act. Funds may resume  
2 once the local health jurisdiction has demonstrated to the satisfaction  
3 of the secretary that it has returned to consistent status.

4 **Sec. 66.** RCW 70.48.130 and 1993 c 409 s 1 are each amended to read  
5 as follows:

6 It is the intent of the legislature that all jail inmates receive  
7 appropriate and cost-effective emergency and necessary medical care.  
8 Governing units, the department of social and health services, and  
9 medical care providers shall cooperate to achieve the best rates  
10 consistent with adequate care.

11 Payment for emergency or necessary health care shall be by the  
12 governing unit, except that the department of social and health  
13 services shall directly reimburse the provider pursuant to chapter  
14 74.09 RCW, in accordance with the rates and benefits established by the  
15 department, if the confined person is eligible under the department's  
16 medical care programs as authorized under chapter 74.09 RCW. After  
17 payment by the department, the financial responsibility for any  
18 remaining balance, including unpaid client liabilities that are a  
19 condition of eligibility or participation under chapter 74.09 RCW,  
20 shall be borne by the medical care provider and the governing unit as  
21 may be mutually agreed upon between the medical care provider and the  
22 governing unit. In the absence of mutual agreement between the medical  
23 care provider and the governing unit, the financial responsibility for  
24 any remaining balance shall be borne equally between the medical care  
25 provider and the governing unit. Total payments from all sources to  
26 providers for care rendered to confined persons eligible under chapter  
27 74.09 RCW shall not exceed the amounts that would be paid by the  
28 department for similar services provided under Title XIX medicaid,  
29 unless additional resources are obtained from the confined person.

30 As part of the screening process upon booking or preparation of an  
31 inmate into jail, general information concerning the inmate's ability  
32 to pay for medical care shall be identified, including insurance or  
33 other medical benefits or resources to which an inmate is entitled.  
34 This information shall be made available to the department, the  
35 governing unit, and any provider of health care services.

36 The governing unit or provider may obtain reimbursement from the  
37 confined person for the cost of health care services not provided under

1 chapter 74.09 RCW, including reimbursement from any insurance program  
2 or from other medical benefit programs available to the confined  
3 person. Nothing in this chapter precludes civil or criminal remedies  
4 to recover the costs of medical care provided jail inmates or paid for  
5 on behalf of inmates by the governing unit. As part of a judgment and  
6 sentence, the courts are authorized to order defendants to repay all or  
7 part of the medical costs incurred by the governing unit or provider  
8 during confinement.

9 To the extent that a confined person is unable to be financially  
10 responsible for medical care and is ineligible for the department's  
11 medical care programs under chapter 74.09 RCW, or for coverage from  
12 private sources, and in the absence of an interlocal agreement or other  
13 contracts to the contrary, the governing unit may obtain reimbursement  
14 for the cost of such medical services from the unit of government  
15 (~~(whose law enforcement officers)~~) that initiated the charges on which  
16 the person is being held in the jail: PROVIDED, That reimbursement for  
17 the cost of such services shall be by the state for state prisoners  
18 being held in a jail who are accused of either escaping from a state  
19 facility or of committing an offense in a state facility.

20 There shall be no right of reimbursement to the governing unit from  
21 units of government (~~(whose law enforcement officers)~~) that initiated  
22 the charges for which a person is being held in the jail for care  
23 provided after the charges are disposed of by sentencing or otherwise,  
24 unless by intergovernmental agreement pursuant to chapter 39.34 RCW.

25 Under no circumstance shall necessary medical services be denied or  
26 delayed because of disputes over the cost of medical care or a  
27 determination of financial responsibility for payment of the costs of  
28 medical care provided to confined persons.

29 Nothing in this section shall limit any existing right of any  
30 party, governing unit, or unit of government against the person  
31 receiving the care for the cost of the care provided.

32 NEW SECTION. **Sec. 67.** The following acts or parts of acts are  
33 each repealed:

34 (1) RCW 70.38.919 (Effective date--State health plan--1989 1st  
35 ex.s. c 9) and 1989 1st ex.s. c 9 s 610; and

36 (2) 2006 c 255 s 10 (uncodified).

1        NEW SECTION.    **Sec. 68.** If any provision of this act or its  
2 application to any person or circumstance is held invalid, the  
3 remainder of the act or the application of the provision to other  
4 persons or circumstances is not affected.

5        NEW SECTION.    **Sec. 69.** Sections 42 through 48 of this act  
6 constitute a new chapter in Title 70 RCW.

7        NEW SECTION.    **Sec. 70.** Sections 50 through 54 of this act  
8 constitute a new chapter in Title 43 RCW.

9        NEW SECTION.    **Sec. 71.** Subheadings used in this act are not any  
10 part of the law.

11       NEW SECTION.    **Sec. 72.** Sections 18 through 22 of this act take  
12 effect January 1, 2009.

13       NEW SECTION.    **Sec. 73.** If specific funding for the purposes of the  
14 following sections of this act, referencing the section of this act by  
15 bill or chapter number and section number, is not provided by June 30,  
16 2007, in the omnibus appropriations act, the section is null and void:

- 17        (1) Section 9 of this act (Washington state quality forum);
- 18        (2) Section 10 of this act (health records banking pilot project);
- 19        (3) Section 14 of this act;
- 20        (4) Section 40 of this act (state employee health program);
- 21        (5) Section 41 of this act (state employee health demonstration  
22 project); and
- 23        (6) Sections 50 through 57 of this act.

24        ***\*NEW SECTION. Sec. 74. Sections 58 and 59 of this act are***  
25 ***necessary for the immediate preservation of the public peace, health,***  
26 ***or safety, or support of the state government and its existing public***  
27 ***institutions, and take effect July 1, 2007.***

\*Sec. 74 was vetoed. See message at end of chapter.

28       NEW SECTION.    **Sec. 75.** Section 30 of this act is necessary for the  
29 immediate preservation of the public peace, health, or safety, or  
30 support of the state government and its existing public institutions,  
31 and takes effect immediately.

1        NEW SECTION.    **Sec. 76.**    Section 66 of this act expires June 30,  
2    2009.

Passed by the Senate April 21, 2007.

Passed by the House April 20, 2007.

Approved by the Governor May 2, 2007, with the exception of  
certain items that were vetoed.

Filed in Office of Secretary of State May 3, 2007.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to Sections 59 and 74,  
Engrossed Second Substitute Senate Bill 5930 entitled:

"AN ACT Relating to providing high quality, affordable health  
care to Washingtonians based on the recommendations of the blue  
ribbon commission on health care costs and access."

I am pleased to support Engrossed Second Substitute Senate Bill 5930,  
an act relating to providing high quality, affordable health care to  
Washingtonians based on the recommendations of the Blue Ribbon  
Commission on Health Care Costs and Access.

Section 59 of this bill establishes a nine-member board charged with  
designing and managing the Washington Health Insurance Partnership  
(WHP). This section duplicates a comparable board established under  
Engrossed Second Substitute House Bill 1569, which passed during the  
2007 legislative session. Section 74 of this bill of is an emergency  
clause, and would allow certain sections of the bill to become  
effective on July 1. Section 74 is not essential to the proper and  
timely implementation of the bill.

For these reasons, I have vetoed Sections 59 and 74 of Engrossed  
Second Substitute Senate Bill 5930.

With the exception of Sections 59 and 74, Engrossed Second Substitute  
Senate Bill 5930 is approved."

# KENYON DISEND, PLLC

July 02, 2018 - 3:06 PM

## Transmittal Information

**Filed with Court:** Supreme Court  
**Appellate Court Case Number:** 95586-7  
**Appellate Court Case Title:** Thurston County, et al. v. City of Olympia, et al.  
**Superior Court Case Number:** 16-2-04768-5

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### Comments:

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