



WASHINGTON
COURTS

SUMMARY
Of Selected
2007 LEGISLATION
Of Interest to the Courts

June 2007

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***“ . . . TO ADVANCE THE EFFICIENT AND
EFFECTIVE OPERATION OF THE
WASHINGTON JUDICIAL SYSTEM ”***

AOC Mission Statement

The Administrative Office of the Courts (AOC) was established by the 1957 Legislature and operates under the direction and supervision of the Chief Justice of the Supreme Court, pursuant to Chapter 2.56 RCW.

2007 Legislative Summary

We are pleased to present a **Summary of Selected 2007 Legislation of Interest to the Courts** and hope it will be useful to implement bills that impact your court. During the 2007 legislative session, the Legislature and Governor enacted 84 bills that affect the courts and are of general interest to the legal community.

Brief descriptions of these measures follow, arranged by court level within each area of law. Designators indicate whether the measure is of primary interest to judges and/or court managers in appellate (A), superior (S), juvenile (J), or district/municipal courts (D/M). Following each bill summary is a section that outlines implementation plans to be undertaken by the Administrative Office of the Courts (AOC) and/or the affected court levels.

Unless otherwise noted at the end of the bill summary, the **effective date of bills is July 22, 2007**. Partial vetoes by the Governor are indicated at the end of the bill summary. For details on vetoes and other bill information, please go the Washington State Legislature's website at www.leg.wa.gov/legislature and enter the bill number under the "Bill Search" heading.

A list of AOC "bill trackers" is provided below. Please feel free to contact the person responsible for the subject area directly if you have questions about a particular bill, or you may call Jeff Hall at 360-357-2131 for general legislative inquiries.

BILL TRACKERS

- LYNNE ALFASSO:** Superior court criminal legislation
lynne.alfasso@courts.wa.gov 360-357-2157
- BRIAN BACKUS:** Court records; JIS/Technology legislation
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- COLLEEN CLARK:** Fiscal note coordinator
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- DOUG HAAKE:** District and municipal court legislation
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- JEFF HALL:** Fiscal notes; BJA/multi-court legislation
jeff.hall@courts.wa.gov 360-357-2131
- DIRK MARLER:** Appellate court legislation
dirk.marler@courts.wa.gov 360-705-5211
- REGINA MCDOUGALL:** Superior court/juvenile offender legislation
regina.mcdougall@courts.wa.gov 360-705-5337
- ROBERT MIERA:** Jury legislation
robert.miera@courts.wa.gov 360-704-4062
- RICK NEIDHARDT:** Superior court civil legislation
rick.neidhardt@courts.wa.gov 360-357-2125
- JANET SKREEN:** Juvenile and family court legislation
janet.skreen@courts.wa.gov 360-705-5252
- ANN SWEENEY:** Administrative public records
ann.sweeney@courts.wa.gov 360-705-5305

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CIVIL

DEFINING DISABILITY IN THE WASHINGTON LAW AGAINST DISCRIMINATION

SSB 5340

Chapter 317, Laws 2007 (ALL)

Provides a definition in statute for “disability” for purposes of Washington’s anti-discrimination laws and provides criteria for qualifying for reasonable accommodation in employment.

The act is retroactive, and applies to causes of action occurring before issuance of the *McClarty* decision on July 6, 2006, and to causes of action occurring on or after the effective date of this act.

PROVIDING A CIVIL CAUSE OF ACTION FOR VICTIMS OF MOTOR VEHICLE THEFT

HB 2034

Chapter 393, Laws 2007 (S)

A person who is the victim of a violation of one of the four car theft statutes may sue the perpetrator. In addition to actual damages, the plaintiff is entitled to recover civil damages of up to \$5,000 and the costs of the suit, including reasonable attorneys’ fees. Summons is to be served on the defendant personally, unless he or she cannot be found after a diligent search, in which case service may be made on the Secretary of State. The plaintiff must file affidavits indicating compliance with the service requirements. The court may order a continuance as needed to allow the defendant a reasonable chance to defend the action. The Department of Licensing is to suspend the driver’s license of the defendant until all monetary obligations imposed as a result of a lawsuit are paid in full. An exception to the mandatory suspension is provided if the defendant has entered into a payment plan with the court.

Amends RCW 46.20.291 and adds new section to RCW 9A.56.

Court action: Refer to judicial education for court staff training.

AOC action: Plan for JIS impact.

RELATING TO ACTIONS BROUGHT BY THE ATTORNEY GENERAL UNDER THE CONSUMER PROTECTION ACT

SSB 5228

Chapter 156, Laws 2007 (S)

Gives the Attorney General explicit authority to bring *parens patriae* actions on behalf of Washington citizens.

Additionally, if the Attorney General brings a *parens patriae* action alleging an anti-trust violation, damages may be recovered not only for those who directly bought the product, but also for those who buy the product from a re-seller.

Effective date: April 17, 2007.

CREATING A NEW STATUS OF DOMESTIC PARTNERSHIPS

SSB 5336

Chapter 156, Laws 2007 (S)

Same-sex couples, and couples having one person who is 62 years of age or older, may enter into domestic partnerships. The bill prescribes further eligibility requirements. Couples enter into the partnership by filing a declaration with the Secretary of State. The partnership is terminated with a similar filing.

Certain powers and rights granted to spouses are granted to domestic partners as follows:

- health care facility visitation rights;
- ability to grant informed consent for health care for a patient who is not competent;
- authority of health care providers to disclose information about a patient without the patient’s authorization to the patient’s state registered domestic partner;
- automatic revocation of the designation of a domestic partner as the beneficiary for nonprobate assets upon termination of the partnership;
- automatic revocation of power of attorney granted to domestic partner upon termination of the partnership;
- title and rights to cemetery plots and rights of interment;

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- ability to authorize autopsies and request copies of autopsy reports and records;
- right to control the disposition of the remains of a deceased person;
- ability to consent to removal of human remains from a cemetery plot;
- ability to make anatomical gifts;
- inheritance rights when the domestic partner dies without a will;
- administration of an estate if the domestic partner died without a will or if the representative named in the will declined or was unable to serve;
- beneficiary rights in wrongful death actions;
- ability to designate a partner who is a physician as the attorney-in-fact; and
- eligibility of a same-sex partner of a public employee to receive PEBB benefits.

PROTECTING VULNERABLE ADULTS

ESHB 1008

Chapter 312, Laws 2007

(S, AOC)

A petition for an order for protection for a vulnerable adult may be brought by an interested person on behalf of the vulnerable adult. "Interested person" means a person who demonstrates to the court that he or she is interested in the vulnerable adult's welfare and has a good faith belief that intervention is necessary to protect the vulnerable adult, and that the vulnerable adult is unable to protect his or her own interests. An interested person must state in the petition why he or she qualifies as an interested person.

When a petition for an order for protection is filed by someone other than the vulnerable adult, notice of the petition and hearing must be personally served on the vulnerable adult.

Notice of a request for a temporary protection order must be provided to the respondent, and to the vulnerable adult if someone other than the vulnerable adult filed the petition, unless there would be immediate and irreparable injury, loss, or damage before notice could be provided.

A process is created for resolving a petition brought on behalf of the vulnerable adult where the vulnerable adult does not consent to the

petition. If the vulnerable adult objects to the petition at the hearing, the court may dismiss the petition or the portions with which the vulnerable adult objects, or the court may take additional testimony or order an additional hearing to determine whether the vulnerable adult is unable to protect his or her person or estate in connection with the issues raised in the petition due to incapacity, undue influence, or duress. The additional evidentiary hearing is not necessary if the vulnerable adult has been found to be fully incapacitated under the guardianship laws. The court may enter a temporary protection order pending the evidentiary hearing, which must be held within 14 days.

The court may enter a protection order against the wishes of a vulnerable adult if the court determines that the vulnerable adult is unable to protect his or her person or estate in connection with the issues raised in the petition due to incapacity, undue influence, or duress.

If the court determines a vulnerable adult who does not consent to the petition is capable of protecting himself or herself, the court must dismiss the order or modify the order if agreed to by the vulnerable adult.

The remedies that the court may provide in an order for protection may extend for a maximum period of five years. The court may not charge a filing fee to the petitioner for a petition for an order for protection.

A process is created for a competent vulnerable adult or a vulnerable adult's guardian to petition for a modification or termination of a protection order.

AOC must develop forms and instructions for use in these actions. Use of the forms is mandatory after October 1, 2007. AOC must translate the forms into other languages by December 31, 2007.

Court action: No filing fee may be charged for these actions.

AOC action: The Pattern Forms Committee and a workgroup of interested parties will develop the

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mandatory forms required by section 4 of the bill. AOC will translate the forms into languages used by a significant number of non-or-limited-English-speaking people in Washington by December 31, 2007.

DANGEROUS WILD ANIMALS

HB 1418

Chapter 238, Laws 2007 (S,D)

Provides for confiscation of potentially dangerous animals; creates civil penalties for violation of the prohibition on keeping dangerous animals.

SHORTENING THE STATUTE OF LIMITATIONS ON CLAIMS UNDER CHAPTER 42.17 RCW (CAMPAIGN FINANCE DISCLOSURE VIOLATIONS)

SHB 1832

Chapter 455, Laws 2007 (S,D)

Citizen's action brought under Chapter 42.17 RCW for campaign finance disclosure violations must be commenced within two years of the violation.

AWARDING PREVAILING PARTIES THEIR ACTUAL COSTS FOR SERVICE OF PROCESS

SB 6059

Chapter 121, Laws 2007 (S,D)

Changes the calculation of costs for service of process that are awarded to prevailing parties. The bill allows the prevailing party to recover *the actual* amount (rather than *a reasonable* amount) charged and incurred for these costs. The bill also places limits on the fees that process servers can charge for their services.

FEES FOR SEXUAL ASSAULT PROTECTION PETITIONS

HB 1437

Chapter 55, Laws 2007 (S,D,M)

The bill prohibits public entities from charging filing fees or process serving fees to the petitioner in a sexual assault protection order case. (With regard to courts, the prohibition against filing fees is essentially a re-wording of the pre-existing law. The prohibition against process serving fees is new.)

Court action: Confirm that the courts are not charging these fees for these cases.

MENTAL ILLNESS

SSB 5533

Chapter 375, Laws 2007 (S,D,M,J)

Makes changes to the competency evaluation and restoration procedures in criminal cases under RCW 10.77 and to civil involuntary commitment proceedings under RCW 71.05. The legislative intent section of this bill states that the needs of individuals with mental illness and the public safety needs of society are better served when individuals with mental illness are provided with an opportunity to obtain treatment and support.

RCW 10.77

Police officers are permitted to divert individuals with mental illness who are alleged to have committed misdemeanors and gross misdemeanors which are not serious crimes as defined in RCW 10.77.092 to mental health treatment.

The general statutory provisions regarding competency evaluation and competency restoration of individuals with mental disorders are consolidated into one new section.

New sections are created to address specific procedures in misdemeanor and felony restoration cases. Mental health professionals are permitted to return individuals to court at any time during the restoration period if they determine that the individual will not regain competency. Only individuals who have been alleged to have committed misdemeanor and gross misdemeanor crimes that are serious in nature may be referred for competency restoration.

A crisis stabilization unit is defined as a short-term facility for individuals who require only stabilization and intervention.

The Department of Social and Health Services is required to certify and to establish minimum standards for crisis stabilization units, such as:

1) physical separation from the general offender population if in a jail;

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- 2) treatment administered by mental health professionals; and
- 3) appropriate security, given the nature of the crime involved.

RCW 71.05

The procedure for non-emergent detentions is modified and a definition of imminent is added.

The summons process and 24-hour reporting period in non-emergent Involuntary Treatment Act cases is eliminated and replaced with an "order to detain" process. The individual who poses a likelihood of serious harm or grave disability may be detained if a judicial officer makes a probable cause finding based on the sworn statement of a mental health professional.

No jail or correctional facility may be considered a less restrictive alternative to an evaluation and treatment facility.

ELIGIBILITY FOR SEXUAL ASSAULT PROTECTION ORDERS

SHB 1555

Chapter 212, Laws 2007 (S,D,M,AOC)

A sexual assault protection order is declared to be a remedy for those who are *not* eligible for a DV protection order. Thus, a person who is sexually assaulted by a family or household member is eligible for a DV order, but not for a sexual assault protection order.

Court action: Judicial officers who hear sexual assault protection cases need to be aware of this new limitation. Also, courts should consider whether there are educational steps that can be taken to reduce the chance that a petitioner who needs protection files the wrong petition.

AOC action: The Pattern Forms Committee will incorporate the requirement of this bill into the pattern forms.

CHILDREN'S MENTAL HEALTH 2SHB 1088

Chapter 359, Laws 2007 (S,J)

Expands the Medicaid children's mental health outpatient therapy benefit. Establishes a children's mental health evidence-based practice institute at UW. Directs DSHS to expedite Medicaid re-enrollment for eligible youth transitioning out of confinement, and to explore providing Medicaid-funded services to juveniles detained temporarily. Establishes a wraparound services pilot program in up to four counties, and expands existing wraparound services in up to two counties. Directs WSIPP and the EBP Institute at UW to analyze and report on inpatient and outpatient mental health care for minors. Requires DSHS to improve medication management and care coordination between children's primary care providers and mental health providers.

ABUSE AND NEGLECT REFERRAL DESIGNATIONS AND RETENTION SB 5321

Chapter 220, Laws 2007 (J)

Effective October 1, 2008, the "inconclusive" category is eliminated regarding child abuse and neglect referrals and "unfounded" will mean that available information indicates that, more likely than not, child abuse or neglect did not occur, or that there is insufficient evidence for the department to determine whether the alleged child abuse did or did not occur. DSHS must conduct the investigation and classify it as founded or unfounded within 90 days. Records of an unfounded or inconclusive report must be destroyed within six years absent a prior or subsequent founded report. The subject of a report of child abuse or neglect may seek relief from the court if the information is not expunged as required by law. If information is improperly disclosed, the court may award a penalty up to \$1,000. In dependency fact-finding hearings the court may consider the history of past involvement with CPS or law enforcement agencies to establish a pattern of conduct, behavior, or inaction regarding the health, safety, or welfare of the child, or to establish that reasonable efforts have been made to prevent or eliminate the need

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to remove the child from the home. DSHS must disclose information about the child's behaviors to a foster parent.

Effective date: Sections 1, 2 and 3 are effective October 1, 2008.

JURISDICTION OVER MUNICIPAL COURT JUDGMENTS

SHB 1144

Chapter 46, Laws 2007 (D,M)

Grants district courts jurisdiction over proceedings to civilly enforce any money judgment from a municipal court or municipal department of a district court. The proceeding may be brought in the district where the municipal court or municipal department is located. Once transferred, the municipal judgment is recognized as a judgment of the district court. The district court may not vacate or amend the judgment. The district court filing fee to transfer the judgment is \$43.

AOC action: Add new BARS and Cost Fee codes.

IMPOUNDMENT OF VEHICLES

SHB 1892

Chapter 242, Laws 2007 (D,M)

Allows impound of vehicles with tags expired in excess of 45 days that are parked on a public street.

VEHICLE IMPOUND

SB 5134

Chapter 86, Laws 2007 (D,M)

Upon a determination that a driver does not possess a special endorsement required for the type of motor vehicle operated, an officer may impound the vehicle.

PROBATE/GUARDIANSHIP

DISPOSITION OF ASSETS

HB 2236

Chapter 475, Laws 2007 (S)

Makes changes to trust and probate law.

Uniform Simultaneous Death Act (USDA).

The general rule in a simultaneous death situation is that a person is deemed to have died first if it is not established by clear and convincing evidence that he or she survived the other relevant person or persons by at least 120 hours. The general rule is applicable if any of the following depend on one person surviving another:

- the devolution of property;
- the right to elect an interest in property; or
- the right to exempt property, a homestead, or a family allowance.

The rule is not to be used if it would result in the state taking intestate property.

A 120-hour rule is also specifically applied to any governing instrument that relates to an individual surviving an event, and to the survivorship rights of a co-owner.

For purposes of the USDA, death occurs as determined by an attending physician or a county coroner or medical officer. Death certificates or government records or reports are prima facie evidence that a person is dead or missing. If a person is missing for seven years without explanation after diligent search or inquiry, the person is presumed to have died at the end of the seven year period.

The 120-hour rule does not apply if there is a contradictory governing instrument, if application would invalidate a nonvested interest or a power of appointment under the rule against perpetuities, or if application would cause failure or duplication of a disposition.

A payor is given immunity from liability for a good faith payment to a person not entitled under the USDA if the payment is made before notice of a

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challenge under the USDA.

Likewise, a person who buys property for value and without notice is not liable and need not return the property.

Representation, Posthumous Children, and Surviving Spouses.

The definition of “representation” is changed to cover distributions based on degrees of kinship to any “decedent,” not just decedents who die intestate. A “posthumous child” is defined as one conceived before, but born after, the death of a parent. A “surviving spouse” is defined to exclude a decedent’s spouse if the marriage has been dissolved or invalidated, unless there has been a subsequent remarriage. A decree of separation is not a dissolution or invalidation unless the decree has terminated the husband and wife status.

Nonprobate Assets.

The termination of a spousal beneficiary designation in a nonprobate asset instrument upon a marriage dissolution is no longer restricted to dissolution decrees from courts of “this state.” The definition of “nonprobate asset” is expanded to include certain brokerage accounts, contracts, and other written instruments that may provide for the nonprobate transfer of property, such as insurance policies, employment contracts, mortgages, bonds, promissory notes, and retirement accounts.

Tangible Personal Property Lists for Gifts under a Will.

Separate lists designating recipients of tangible personal property may be used in conjunction with irrevocable trusts, as well as with wills.

Commencing a Will Contest.

The four-month period for contesting a will is tolled by the filing of a petition with the court. However, the action is deemed not to have been commenced, and the period of limitation not tolled, if the petitioner does not personally serve the personal representative of the estate within 90 days of the filing.

Award of Attorneys’ Fees in Dispute Resolution Actions.

To award costs and attorneys’ fees under the

TEDRA, a court need not find that the litigation has benefited the trust or estate involved.

PUBLIC GUARDIANSHIP OFFICE

SSB 5320

Chapter 364, Laws 2007

(S,AOC)

Creates an office of public guardianship (OPG) within the Administrative Office of the Courts. The public guardian administrator is to contract with certified professional guardians to provide guardianship services to incapacitated persons in need of services but without the ability to pay. The public guardian administrator must be appointed by the Supreme Court. In its first two years, the office must establish pilot projects in two counties, one urban and one rural, to provide services.

Court Impact: In the two counties chosen for the pilot program, the court will see an increase in the number of guardianship cases. The local court will be required to pay costs associated with these cases other than guardian fees, such as GAL, attorney and interpreter fees and costs. Courts must waive filing fees and costs for clients receiving services pursuant to this bill.

Partial veto: *The Governor vetoed section 5 of the bill, which would have established a Public Guardianship Advisory Committee.*

AOC action: *Establish an office of public guardianship within AOC. The Supreme Court will appoint the public guardian administrator to manage the program.*



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FAMILY & JUVENILE

CHILD SUPPORT REVIEW WORK GROUPS AND ORDER SUMMARY REPORT

2SHB 1009

Chapter 313, Laws 2007 (S)

Requires the Division of Child Support (DCS) to: (a) convene a work group to continue the work of the 2005 work group; and (b) convene a work group every four years, starting in Aug. 2007, to review the child support guidelines; the first report is due Dec. 30, 2008. Requires the Joint Legislative Audit and Review Committee to analyze child support data, review the application of child support guidelines, review recommendations of the DCS work group, and prepare a report no later than July 1, 2010. Requires the summary report on child support orders and modifications to be sent to the DCS rather than AOC.

Court action: SCJA to appoint representatives to the work group.

AOC action: Revise child support worksheets to include order summary report form. Appoint AOC representative to the work group.

CREATING A NEW STATUS OF DOMESTIC PARTNERSHIPS

SSB 5336

Chapter 156, Laws 2007 (S)

See *Civil*, Page 4.

DISSOLUTION PROCEEDINGS

2SSB 5470

Chapter 496, Laws 2007 (S,AOC)

Establishes a new family court program effective July 1, 2009. Provides for mediation where appropriate in cases involving domestic violence or child abuse. Provides that RCW 26.09.191 limitations shall protect the child and parent against harm by the parent seeking contact and may include supervised contact or treatment. Requires screening of both parties if domestic violence allegations are made. Requires the court to check JIS before entering permanent parenting

plan. Creates a task force to establish family law program procedures, review dispute resolution process, develop sexual assault and domestic violence training curriculums, and assess needed changes in family law matters. Revises parenting plan factors. Establishes supervised visitation requirements. Provides for low- or no-cost GALs for indigent parties. It also provides for tracking of the parenting plan data.

Effective dates: Section 201 & 204 Family Law Program effective July 1, 2009. Section 202 Family Law Handbook effective January 1, 2008. Section 501 Mediation effective January 1, 2009.

Court action: The court must check JIS before entering permanent parenting plan.

The court must develop protocol for screening for DV and child abuse and neglect when those allegations are made with reference to establishing a parenting plan.

Application to seek filing fee surcharge authority from county legislative authority to fund new family court program.

AOC action: Develop county reimbursement procedure for family law handbook. Develop formula for funding disbursement to courts for GALs.

Review pattern forms for changes. Prepare annual report on parenting plan data. Develop training plan for family court program.

Implement JRS transaction codes to receipt fees and surcharges at appropriate effective dates.

REPORTS OF CHILD ABUSE

SSB 5839

Chapter 118, Laws 2007 (S,D)

The term "malicious" is eliminated from the false reporting statute, RCW 26.44.060. CPS is required to include a warning statement in any materials relating to the reporting of abuse or neglect. CPS is required to send a certified letter to individuals determined to have made a false report warning that a subsequent false report will be referred to law enforcement for investigation.

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AOC action: Update the law table if necessary.

COMBATING AUTO THEFT
E3SHB 1001
Chapter 199, Laws 2007 (S,D,M,J,AOC)

New crimes and penalties related to auto theft.

The act provides for increased penalties and triple scoring of prior motor vehicle-related offenses (theft, possession of a stolen vehicle, and taking a vehicle without permission). Home detention is established as an option for first-time adult offenders.

Juvenile offenders are subject to risk assessments, home detention, and increased penalties for the same motor vehicle-related offenses. Section 15 of the act provides that the juvenile court *shall* sentence a juvenile with a high enough criminal history score to JRA *and* community restitution *and* home detention.

New crimes are created to cover the making and possession of motor vehicle theft tools.

A statewide Auto Theft Prevention Authority is created to study motor vehicle theft in Washington.

A \$10 surcharge per traffic infraction is imposed for deposit in the Washington Auto Theft Prevention Account. This fee may not be waived or reduced. The money in the account must be used for activities relating to motor vehicle theft, including education, prevention, law enforcement, investigation, prosecution, and confinement costs.

Court action: NonJIS courts will need to amend their local law tables to reflect the new crimes. NonJIS courts will also need to amend their accounting database to reflect the new infraction surcharge.

AOC action: AOC will amend the JIS law table to reflect the new crimes. AOC will update the JIS accounting database to reflect the new infraction surcharge.

CHILDREN OF INCARCERATED PARENTS
ADVISORY COMMITTEE
E2SHB 1422
Chapter 384, Laws 2007 (S,D,M,J,AOC)

The Department of Community, Trade and Development (DCTED) shall create an advisory committee with representatives from child advocates, Washington Indian Tribes, court administrators, the Administrative Office of the Courts, Washington Association of Sheriffs and Police Chiefs, jail administrators, the Office of the Governor, and others who have an interest in issues of children of incarcerated parents. The advisory committee is required to submit recommendations to the DCTED regarding which community programs the DCTED should fund. The programs funded by the DCTED should collaborate with an agency, or agencies, that serve sexual assault and domestic violence victims to ensure the programs provide appropriate services.

AOC action: Appoint an AOC representative to the advisory committee.

CHILDREN'S MENTAL HEALTH
2SHB 1088
Chapter 359, Laws 2007 (S,J)

See *Civil*, Page 7.

GANG-RELATED CRIMES PREVENTION
WORK GROUP
SSB 5987
Chapter 389, Laws 2007 (S,J)

Convenes a work group to evaluate and make recommendations regarding additional legislative measures to combat gang-related crime, the creation of a statewide gang information database, possible reforms to the juvenile justice system for gang-related juvenile offenses, best practices for prevention and intervention of youth gang membership, and the adoption of legislation authorizing a civil anti-gang injunction.

Court action: A Juvenile Court Administrator is included in the work group.

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DEPENDENT CHILD RETURN HOME CONDITIONS (SIRITA'S LAW)

SHB 1333

Chapter 410, Laws 2007

(J,AOC)

Provides to DSHS and the courts authority to do background checks of potential caregivers in a home prior to returning or placing a child in that home and to require such persons to engage in services, whether they are parties to the dependency or not. The court may deny or delay placement of a child in the home if background check and services are not complete. If a child is returned home and removed again, the court must hold a review hearing within 30 days at which the best interests of the child will be the court's primary consideration. Requires the Joint Legislative Audit and Review Committee to study and report on service gaps and an annual report by the AOC on cases that missed statutory deadlines for establishing permanency.

AOC action: Perform annual review of cases which missed statutory deadlines for establishing permanency. Review pattern forms for needed updates. Include in judicial education.

REUNIFICATION AFTER TPR AND REORGANIZATION OF RCW 13.34

ESHB 1624

Chapter 413, Laws 2007

(J,AOC)

Establishes a procedure under RCW 13.34 for reinstatement of parental rights in limited circumstances via petition filed by a child 12 years old or older who has been legally free for at least three years and whose permanency plan has not been achieved. Requires a threshold hearing to determine the parent's apparent fitness and interest before a hearing on the merits. If the court then finds by clear and convincing evidence that reinstatement of parental rights is in the child's best interest, the court shall conditionally grant the petition for six months during which time the department shall provide transition services as appropriate. Reinstatement of parental rights is a separate action from the original termination and does not vacate the termination. This applies retroactively to any child under the jurisdiction of juvenile court at the time of the reinstatement hearing, regardless of the date parental rights

were terminated.

Also amends RCW 13.34.060, 13.34.062, 13.34.065, 13.34.130, 13.34.136, 13.34.138 and 13.34.145. Shelter care hearings sections (.060, .062 and .065) review and permanency hearings sections (.136, .138 and .145) have been reorganized. New provisions include issues the court should address at shelter care hearings at RCW 13.34.065(4). Clearly provides that the "paramount consideration for the court shall be the health, welfare, and safety of the child." Similar issues to be addressed are added to RCW 13.34.138 for review hearings and 13.34.145 for permanency planning hearings. Amends RCW 13.34.060 to expand the discretion of the court to place a child with a non-relative at shelter care.

Court action: Requires the court to inquire into new and additional issues at shelter care, review and permanency planning hearings.

Courts will need to establish procedures for new cause of action for reinstatement of parental rights, including appointing GAL and attorney for child seeking to file such a petition.

AOC action: Creation of pleadings for new action to reinstate parental rights; review and amendment of existing pleadings.

Inclusion in judicial education.

DEPENDENT CHILD'S HEALTH AND SCHOOL RECORDS AND CAREGIVERS' RIGHT TO NOTICE OF HEARINGS

SHB 1287

Chapter 409, Laws 2007

(J)

Requires DSHS to provide foster parents, pre-adoptive parents, and other care givers notice of their right to be heard in court proceedings for children in out-of-home care. Requires court order authorizing the DSHS access to educational, medical health, and mental health records of children in DSHS custody. Requires court order authorizing caregivers to authorize and manage certain school matters. Requires foster parents and other caregivers to sign a statement of confidentiality.

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Partial veto: Sections 3 and 4 were vetoed.

Effective date: July 1, 2007.

Court action: Court must enter Order and Authorization regarding Health Care and Education (JU 02.0240) at shelter care. Court should ask DSHS for proof of notice of hearing to caregivers.

AOC action: Inclusion in judicial education.

CHILD'S RETURN HOME DOCUMENTATION TO DEPENDENCY COURT (RAFAEL GOMEZ ACT)

2SHB 1334

Chapter 411, Laws 2007 (J)

In any dependency proceeding where DSHS is recommending a child be placed with a parent after removal because of abuse or neglect allegations, DSHS must submit to the court a report including documents regarding remedial services or treatment received relevant to the persons in the home in which a child will be placed.

AOC action: Inclusion in judicial education.

OUT-OF-HOME PLACEMENT OF CHILDREN HB 1377

Chapter 412, Laws 2007 (J)

Kinship care placement options are expanded to include a child's second cousins and the relatives of any half-siblings of the child. Placement of a child with such a relative also is conditioned on the relative being willing and available to care for and meet any special needs of the child.

Subject to court review and a finding that such a placement is in the child's best interests, a child who has been removed from his or her own home may also be placed in the home of another suitable person:

- 1) with whom the child or child's family has a preexisting relationship;
- 2) who has completed the required criminal background check; and

- 3) who otherwise appears to be suitable and competent to care for the child.

DISPROPORTIONALITY IN CHILD WELFARE TASK FORCE

SHB 1472

Chapter 465, Laws 2007 (J)

DSHS shall convene an advisory committee to study and make recommendations on: (1) the level of involvement for children of color in the state's child welfare system; (2) the number of children of color in low-income or single-parent families involved in child welfare; (3) the structures of families involved in child welfare; and (4) the outcomes for children in the existing system. The first report of analysis and plan to remedy disproportionality is due December 1, 2008; DSHS shall make annual reports of its progress in 2010 - 2014.

OPEN CHINS/ARY HEARINGS

SHB 1565

Chapter 213, Laws 2007 (J)

A child in need of services (CHINS) hearing must be open to the public unless the court determines that it is in the best interest of the child to close the hearing to the public. An at-risk youth (ARY) hearing is open to the public unless the court determines that it is in the best interest of the child to close the hearing or if either parent requests that the hearing be closed to the public. At the beginning of the ARY hearing, the judicial officer is required to notify the parents that either parent has the right to request that the public be excluded from the ARY hearing.

Court action: Court must advise parents of the right to request a closed hearing at the beginning of the ARY hearing.

DROP-OUT PREVENTION

2SHB 1573

Chapter 408, Laws 2007 (J)

The Office of the Superintendent of Public Instruction (OSPI) is directed to create the Building Bridges Program to award grants to local partnerships involving juvenile courts, schools, families, and communities. The partnerships

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identify students at risk of dropping out of school, or who have dropped out, and provide those students with assistance and support to facilitate the continuation of their education. OSPI shall establish a state-level work group of various specified state agencies and juvenile courts that work with at-risk youth or youth who have dropped out of school, to make recommendations to the Legislature, develop and track performance measures for the partnerships; identify research-based and emerging best practices for prevention, intervention, and retrieval programs; and examine funding issues related to contracts with alternative educational service providers. First annual report of recommendations is due December 1, 2007.

Partial veto: Section 8.

Court action: Recommend a juvenile court representative to the work group.

POLYGRAPH TESTS

SB 5635

Chapter 14, Laws 2007 (J)

Removes the "initial" application limitation for polygraph exams as a condition of employment for juvenile court services agencies and law enforcement.

JUVENILE SEX OFFENDERS PAROLE VIOLATION

SSB 5243

Chapter 203, Laws 2007 (J)

Juveniles confined for committing a "sex offense" under RCW 9A.44.130 who violate parole may be returned to confinement by the Secretary up to 24 weeks, not to exceed the remainder of his or her disposition. Confinement beyond 30 days for a parole violation is allowed only when other graduated sanctions or interventions have not been effective or when warranted by egregious behavior and the violation meets certain criteria. DSHS shall make rules for implementation.

Effective date: October 10, 2007.

CHILD SUPPORT OBLIGATIONS

SSB 5244

Chapter 143, Laws 2007 (J)

Either or both parents must be ordered to provide health insurance coverage for the child; health insurance coverage for the child may be enforced against either or both parents. Medical support enforced against a parent may include co-pays, deductibles, and uninsured medical expenses paid on behalf of a child. If the Division of Child Support provides collection services, it must charge and retain \$25 annually from custodial parent's child support after the first \$500 when the family has not received TANF. Effective October 1, 2008 families receiving TANF are only required to assign child support owed to them during the months they receive TANF. Effective October 1, 2008 TANF pass-through to custodial parent is up to \$100 per month in collected child support for one child and up to \$200 per month in child support for two or more children.

AOC action: Inclusion in judicial education. Review pattern forms for needed updates.

ABUSE AND NEGLECT REFERRAL DESIGNATIONS AND RETENTION

SB 5321

Chapter 220, Laws 2007 (J)

See *Civil*, Page 7.

CRIMINAL

DISORDERLY CONDUCT

HB 1168

Chapter 2, Laws 2007 (ALL)

The disorderly conduct statute is amended to include certain disruptive behavior at or near a funeral, funeral procession, or memorial service. A person is guilty of disorderly conduct if the person does the following: intentionally engages in fighting or tumultuous conduct, or makes unreasonable noise, within 500 feet of a funeral or burial, a funeral home during the viewing of a deceased person, the location of a memorial service, or a funeral procession if the person

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knows that the procession is taking place; and knows that the activity adversely affects the funeral, burial, viewing, funeral procession, or memorial service.

Effective date: February 2, 2007.

AOC action: Update the law table if necessary.

CHANGING CERTIFICATE OF DISCHARGE REQUIREMENTS

HB 1431

Chapter 171, Laws 2007 (S)

The requirements for a certificate of discharge database in the Department of Corrections and in the Secretary of State's office are eliminated. The requirement that copies of certificates of discharge be sent to county auditors is eliminated. Each certificate is to be filed with the county clerk in the county of the sentencing court.

The county clerks are required to enter the names of discharged felons into a database maintained by the Administrative Office of the Courts.

REVISING PROVISIONS RELATING TO THE INDETERMINATE SENTENCE REVIEW BOARD

HB 1592

Chapter 363, Laws 2007 (S)

The new minimum term established by the indeterminate Sentence Review Board (ISRB) for a "determinate plus" offender who is not released may not exceed five years. An offender must be permitted to petition for earlier release if circumstances change or if new information warrants earlier review. References to hearing examiner are changed to "presiding hearing officer." The requirement that the ISRB provide notice of the violation is removed. A requirement is added that the ISRB must provide the offender with findings and conclusions as to its decision on a violation and will notify the offender of the right to appeal. The ISRB may issue a certificate of discharge to an offender who has performed all the obligations of his or her release including the payment of any and all legal financial obligations.

Amends RCW 9.95.011, 9.95.420, 9.95.435, and 9.96.050.

Note: The ISRB is a function of the Department of Corrections.

EXCEPTIONAL SENTENCES

EHB 2070

Chapter 205, Laws 2007 (S)

In 2005, the legislature responded to the *Blakely* decision by changing the manner in which exceptional sentences are imposed. The prosecutor must now prove the aggravating circumstances justifying an exceptional sentence to a jury (or to the judge if the jury is waived) beyond a reasonable doubt.

In 2007, the Washington State Supreme Court ruled that this change could not be applied to cases where trials had already begun or guilty pleas had already been entered prior to the effective date of the legislation (April 15, 2005). *State v. Pillatos*, 159 Wn.2d 459 (2007). The court in *Pillatos* also held that courts do not have the inherent power to empanel sentencing juries; i.e., the courts must have statutory authority to do so.

This bill provides that in any case where an exceptional sentence was imposed and a new sentencing hearing is now required, the superior court has the authority at the new sentencing hearing to empanel a jury to consider aggravating circumstances that were relied upon in the previous sentence and that require a jury verdict.

EXPANDING THE OFFENDER SCORE TO INCLUDE OFFENSES CONCERNING THE INFLUENCE OF INTOXICATING LIQUOR OR ANY DRUG

SB 5711

Chapter 116, Laws 2007 (S)

The criminal history portion of a person's offender score, if the present conviction is for a felony traffic offense, requires counting 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. If the present conviction is for homicide by watercraft or assault by watercraft, the criminal history portion of the offender's score includes two points for each adult or juvenile prior conviction for homicide by watercraft or assault by watercraft. If

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the present conviction is for homicide by watercraft or assault by watercraft, one point is counted for each adult and 1/2 point for each juvenile prior felony offense. A present conviction of homicide by watercraft or assault by watercraft necessitates counting one point for each adult and 1/2 point for each juvenile prior conviction for driving or 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.

Re-enacting and amending RCW 9.94.525.

Effective date: July 1, 2007.

MODIFYING PROVISIONS RELATING TO THE COLLECTION OF LEGAL FINANCIAL OBLIGATIONS

SSB 5190

Chapter 91, Laws 2007 (S)

Modifies statutes on legal financial obligations (LFOs) to permit a county clerk or restitution recipient to take collection action against an inmate's moneys, assets, or property. Prohibits the imposition of a fee for furnishing certified copies of a death certificate of any offender requested by a county clerk or court for the purposes of extinguishing the offender's legal financial obligation.

MONEYS RECEIVED BY AN INMATE

SB 5429

Chapter 365, Laws 2007 (S)

Makes changes to the deductions and priorities provided in statute when a prison inmate receives funds while incarcerated. The statutory deduction for child support is increased from 15 percent to 20 percent of the funds received by an inmate from sources other than wages or legal awards or settlements.

The order of priority for distribution of funds deducted from funds received by an inmate from sources other than wages or as a result of a legal action is changed so that payment to the state is after the payment of legal financial obligations and the payment of child support.

When an inmate who has a child support obligation receives funds from an inheritance, amounts will be deducted to pay the cost of incarceration only after the child support obligation has been paid in full.

CHANGING PROVISIONS AFFECTING OFFENDERS WHO ARE LEAVING CONFINEMENT

ESSB 6157

Chapter 483, Laws 2007 (S)

This legislation addresses the reentry to the community for offenders returning from prison. The legislation contains various goals including:

- The Department of Corrections and local governments are encouraged to collaborate in establishing networks and providing services to offenders returning to the community.

- DOC is required to address offender risks and deficits through assessment and the provision of programming such as education, employment services and treatment.

- Offenders are provided greater opportunities for employment and housing to assist in their transition from prison to the community.

This legislation also provides for various assignments to the Department of Corrections, Community Transition Coordination Networks, Washington Institute for Public Policy, Department of Community, Trade, and Economic Development, and the Department of Licensing. The duties and expectations are outlined below:

PART I - Community Transition Coordination Networks: Each county or group of counties are required to conduct an inventory of the services available in the county or region to assist offenders in reentering the community and present its assessment to the policy advisory committee. A community transition coordination network program (CTCN) is created within the Department of Community, Trade and Economic Development (DCTED).

PART II - Individual Reentry Plan: DOC is required to develop an individual reentry plan for

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every offender committed to the jurisdiction of the department.

PART III - Partial Confinement and Supervision: WSIPP will conduct an analysis of reentry and work release programs to identify evidence-based practices for the state of Washington. DOC must continue to establish Community Justice Centers (CJC) throughout the state.

PART IV - Education: DOC is to fund basic academic skills through obtaining a high school diploma or its equivalent; achievement of vocational skills necessary for purposes of work programs and for an inmate to qualify for work upon release; and additional work and education programs necessary for compliance with an offender's individual reentry plan (except post-secondary education).

PART V - Employment Barriers: The Department of Licensing (DOL) and DOC must enter into an agreement to assist offenders in obtaining drivers' licenses. The DOL is also required to convene a work group to review and recommend changes to occupational licensing laws and policies to encourage the employment of individuals with criminal convictions while ensuring the safety of the public.

PART VI - Housing: A landlord who rents to an offender is not liable for civil damages arising from the criminal conduct of the tenant if the landlord discloses to residents that he or she has a policy of renting to offenders and takes steps to repeat or halt known criminal activity on the landlord's premises. The state and local entities providing housing assistance to offenders are not liable for civil damages arising from the criminal conduct of an offender solely due to the placement of the offender in housing.

Effective date: Various reporting deadlines exist for different agencies.

Other information: Section 306 of the bill creates a legislative task force on laws related to community custody and community supervision. One of the members of the task force is to be a superior court judge appointed by the governor.

VULNERABLE ADULTS

SHB 1097

Chapter 20, Laws 2007

(S,J)

Protects frail elders and vulnerable adults and persons with developmental disabilities from perpetrators who commit their crimes while providing transportation, within the course of their employment, to frail elders and vulnerable adults and persons with developmental disabilities. Expands the definitions of rape in the second degree and indecent liberties, both of which are felonies, to include sexual contact with elders, vulnerable adults and persons with developmental disabilities while the perpetrator is providing transportation while in the course of employment.

ASSAULT BY STRANGULATION

HB 5953

Chapter 79, Laws 2007

(S,J)

A person may be charged with assault in the second degree when, under circumstances not amounting to assault in the first degree, he or she assaults another by strangulation. Assault in the second degree is a class B felony. This crime is a level IV felony punishable by three to nine months of confinement for a first offense. "Strangulation" is defined as compressing a person's neck, thereby obstructing the person's blood flow or ability to breathe, or doing so with the intent to obstruct the person's blood flow or ability to breathe.

GANG-RELATED CRIMES PREVENTION WORK GROUP

SSB 5987

Chapter 389, Laws 2007

(S,J)

See *Family & Juvenile*, Page 11.

REPORTS OF CHILD ABUSE

SSB 5839

Chapter 118, Laws 2007

(S,D)

See *Family & Juvenile*, Page 10.

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IMPOSING PENALTIES FOR ENGAGING IN THE COMMERCIAL SEXUAL ABUSE OF MINORS

SSB 5718

Chapter 368, Laws 2007

(S,D,J,AOC)

- A person is guilty of commercial sexual abuse of a minor if the person pays a fee to engage in sexual conduct with a minor, pays or agrees to pay a fee pursuant to an understanding that the minor will engage in sexual conduct with him or her, or he or she solicits, offers, or requests to engage in sexual conduct with a minor. This crime is a class C felony.
- A person is guilty of promoting commercial sexual abuse of a minor if he or she knowingly advances or profits from a minor engaged in sexual conduct. This crime is a class B felony.
- A person commits the offense of promoting travel for commercial sexual abuse of a minor if he or she knowingly sells or offers to sell travel services to facilitate commercial sexual abuse of a minor. This crime is a class C felony.
- A person is guilty of permitting commercial sexual abuse of a minor if the person has control of premises which he or she knows are being used for commercial sexual abuse of a minor. This crime is a gross misdemeanor.

Promoting commercial sexual abuse of a minor and promoting travel for the commercial sexual abuse of a minor are added to those crimes for which lack of knowledge as to the age of the victim is not a defense. A one-year sentence enhancement for Rape of a Child and Child Molestation is imposed when the perpetrator engaged, agreed or offered to engage the victim in sexual conduct for a fee after the effective date of the act. A special verdict process is created for the purpose of determining whether the defendant engaged, agreed, offered, attempted, solicited another, or conspired to engage the victim in sexual conduct in return for a fee in prosecutions for Rape of a Child in the first, second, and third degrees; Child Molestation in the first, second, and third degrees; and anticipatory crimes related to the offenses. The prosecution is required to prove the special verdict to a jury (or to the court if no jury is had) beyond a reasonable doubt. A person who has entered into a statutory or nonstatutory diversion agreement for the

commercial sexual abuse of a minor or the crimes of indecent exposure, prostitution, permitting prostitution, or patronizing a prostitute is subject to the same financial penalties as those that apply to a person who has been convicted of the crime.

Applies to RCW 9A, 9.68A, 19, 9.94, and 9.94A.

Court action: Refer to judicial education for appropriate court staff training.

AOC action: Plan for JIS impact. Amend JIS law table to add new crimes. NonJIS courts will need to add the new crimes to their own law tables.

Ask Pattern Forms Committee to amend the felony plea and sentencing forms to include the new sentencing enhancement.

CHILDREN OF INCARCERATED PARENTS ADVISORY COMMITTEE

E2SHB 1422

Chapter 384, Laws 2007

(S,D,M,J,AOC)

See *Family & Juvenile*, Page 11.

CORRECTIONAL AGENCY EMPLOYEES

SHB 1319

Chapter 201, Laws 2007

(S,D,M,J)

It is a felony to stalk certain protected classes of persons (stalking is otherwise a gross misdemeanor). This bill adds the employees, contractors and volunteers of a "correctional agency" to the list of protected classes of persons. A "correctional agency" is defined as "a person working for the Department of Natural Resources in a correctional setting or any state, county, or municipally-operated agency with the authority to direct the release of a person serving a sentence or term of confinement and includes but is not limited to the Department of Corrections, the Indeterminate Sentencing Review Board and the Department of Social and Health Services."

MENTAL ILLNESS

SSB 5533

Chapter 375, Laws 2007

(S,D,M,J)

See *Civil*, Page 6.

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NO CONTACT ORDERS

SHB 1642

Chapter 173, Laws 2007 (S,D,M)

Clarifies that it is a gross misdemeanor to violate protection, no contact, or restraining orders in specified ways.

SPECIALIZED FOREST PRODUCTS

SHB 1909

Chapter 392, Laws 2007 (S,D,M)

The harvest of huckleberries using a rake, mechanical device, or other method that damages the huckleberry bush is made unlawful. An affirmative defense is provided to persons prosecuted for certain violations of the specialized forest products statute.

AOC action: Update the law table if necessary.

DUI PRIOR OFFENSES

SHB 2130

Chapter 474, Laws 2007 (S,D,M)

For the purpose of determining prior offenses under the felony DUI law, the term "within ten years" is defined to mean that the arrest for a prior offense occurred within 10 years of the arrest for the current offense.

ANIMAL ABANDONMENT

SSB 5227

Chapter 376, Laws 2007 (S,D,M)

The crime of second degree animal cruelty, if committed by an owner who abandons the animal, is a gross misdemeanor offense. If the abandonment results in bodily harm to the animal or creates an imminent and substantial risk of substantial bodily harm to the animal, the affirmative defense of economic distress does not apply.

AOC action: Update the law table if necessary.

STOLEN METAL PROPERTY

ESSB 5312

Chapter 377, Laws 2007 (S,D,M)

Establishes procedures, record keeping requirements, and reporting requirements relating to the purchase or sale of metal. Section 7 creates a number of gross misdemeanor offenses related to stolen metal property.

AOC action: Update the law table if necessary.

CHARITABLE DONATIONS

SSB 6100

Chapter 367, Laws 2007 (S,D,M)

Prohibits prosecutors from dismissing, reducing or not issuing criminal charges in return for contributions to persons or organizations not specifically authorized by statute. Authorizes courts to impose supervision costs pre-conviction.

AOC action: Add new accounting codes for pre-trial supervision costs.

MEDICAL USE OF MARIJUANA

ESSB 6032

Chapter 371, Laws 2007 (S,D,M)

Clarifies legislative intent with respect to medical marijuana.

COMBATING AUTO THEFT

E3SHB 1001

Chapter 199, Laws 2007 (S,D,M,J,AOC)

See *Family & Juvenile*, Page 11.

REPEALING STATUTES REGULATING FOOD

LOCKERS

HB 1305

Chapter 52, Laws 2007 (D)

Repeals RCW Chapter 19.32 – Food Lockers – which includes crimes related to the operation of food lockers.

AOC action: Update the law table if necessary.

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REGULATION OF TRANSPORTATION PROVIDERS

SHB 1312

Chapter 234, Laws 2007 (D)

Overhauls statutes regulating transportation providers. Obsolete provisions, archaic terminology, and inaccurate or out-of-date references to state or federal agencies are eliminated or modified as necessary. Laws related to railroad rates, routes, and services are repealed or amended in order to reflect the current state of federal preemption. Sections related to violations of the law and penalties by interstate and foreign carriers operating transportation for persons with special needs, auto transportation companies, and passenger charter carriers are modified. Sections related to violations of the law and penalties in the following areas are repealed: auto transportation companies, train employees, illiterate locomotive engineers, safety appliances on locomotives, locomotive speedometers, defective trains, cabooses, track motor cars, locomotive bells, and shipping forest products by rail.

AOC action: Update the law table if necessary.

MODIFYING PROVISIONS REGULATING CONTRACTORS

SHB 1843

Chapter 436, Laws 2007 (D)

Elevates the crime of advertising or working as a contractor without valid registration (RCW 18.27.020) to a gross misdemeanor and adds subcontracting to use an unregistered contractor in the definition of this crime.

Elevates the crime of failure to timely respond to the notice of infraction (RCW 18.27.240) to a gross misdemeanor.

Elevates the crime of willful failure to respond to the notice of infraction (RCW 18.27.290) to a gross misdemeanor.

AOC action: Update the law table if necessary.

MODIFYING COMMERCIAL MOTOR VEHICLE CARRIER PROVISIONS

SHB 1304

Chapter 419, Laws 2007 (D,M)

Authorizes the Washington State Patrol (WSP) to use data-driven analysis to prioritize motor carriers for inspection and compliance reviews. Requires certain intrastate motor carriers to have United States Department of Transportation numbers. Authorizes the WSP to place motor carriers out of service until violations have been corrected. Increases penalties for commercial vehicle compliance and safety violations. Creates a new crime for failure to comply with out of service orders.

AOC action: Update the law table if necessary.

JURISDICTION OVER MUNICIPAL COURT JUDGMENTS

SHB 1144

Chapter 46, Laws 2007 (D,M)

See *Civil*, Page 8.

DISTRICT AND MUNICIPAL COURTS PROBATION LIABILITY

SHB 1669

Chapter 174, Laws 2007 (D,M)

A limited jurisdiction court that provides misdemeanor supervision services is not liable for damages based on the inadequate supervision or monitoring of a misdemeanor defendant or probationer unless the inadequate supervision or monitoring constitutes gross negligence.

INTERMEDIATE DRIVERS' LICENSE

SB 5036

Chapter 28, Laws 2007 (D,M)

Repealing application of the sunset act; the intermediate driver's license becomes a permanent part of Washington law.

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POLYGRAPH/SEX ASSAULT VICTIM

HB 1520

Chapter 202, Laws 2007 (none)

Law enforcement officers, prosecuting attorneys, and other government officials may not ask or require a victim of an alleged sex offense to submit to a polygraph exam or other truth telling device as a condition of proceeding with the investigation of the offense. The victim's refusal to take a polygraph exam or other truth telling device shall not by itself prevent the investigation, charging, or prosecution of the offense.

NEW & AMENDED CRIMES

DISORDERLY CONDUCT

HB 1168

Chapter 2, Laws 2007 (ALL)

See *Criminal*, Page 14.

IMPOSING PENALTIES FOR ENGAGING IN THE COMMERCIAL SEXUAL ABUSE OF MINORS

SSB 5718

Chapter 368, Laws 2007 (S,D,J,AOC)

See *Criminal*, Page 18.

CORRECTIONAL AGENCY EMPLOYEES SHB 1319

Chapter 201, Laws 2007 (S,D,M,J)

See *Criminal*, Page 18.

COMBATING AUTO THEFT E3SHB 1001

Chapter 199, Laws 2007 (S,D,M,J,AOC)

See *Family & Juvenile*, Page 11.

VULNERABLE ADULTS

SHB 1097

Chapter 20, Laws 2007 (S,J)

See *Criminal*, Page 17.

ASSAULT BY STRANGULATION

HB 5953

Chapter 79, Laws 2007 (S,J)

See *Criminal*, Page 17.

REPORTS OF CHILD ABUSE

SSB 5839

Chapter 118, Laws 2007 (S,D)

See *Family & Juvenile*, Page 10.

SPECIALIZED FOREST PRODUCTS

SHB 1909

Chapter 392, Laws 2007 (S,D,M)

See *Criminal*, Page 19

ANIMAL ABANDONMENT

SSB 5227

Chapter 376, Laws 2007 (S,D,M)

See *Criminal*, Page 19.

STOLEN METAL PROPERTY

ESSB 5312

Chapter 377, Laws 2007 (S,D,M)

See *Criminal*, Page 19.

PUBLIC EMPLOYMENT/RETIREEES

SHB 1262

Chapter 50, Laws 2007 (D,AOC)

Creates a new crime. Any person who knowingly makes false statements or falsifies records related to the person's separation from service and qualification for a retirement allowance from the Washington state teachers' retirement system in an attempt to defraud the system is guilty of a gross misdemeanor.

Court action: NonJIS courts should amend their law tables to include this new crime.

AOC action: Amend the JIS law table to include this new crime.

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MODIFYING COMMERCIAL MOTOR VEHICLE CARRIER PROVISIONS

SHB 1304
Chapter 419, Laws 2007 (D,M)

See *Criminal*, Page 20.

INFRACTIONS

COMBATING AUTO THEFT

E3SHB 1001
Chapter 199, Laws 2007 (S,D,M,J,AOC)

See *Family & Juvenile*, Page 11.

TEXT MESSAGING WHILE DRIVING

EHB 1214
Chapter 416, Laws 2007 (D,M)

Makes operating a vehicle while sending, reading, or writing a text message a secondary traffic infraction. The traffic infraction created in the bill does not apply to: (1) drivers of emergency vehicles; (2) a person reporting illegal activity or summoning emergency help; or (3) the relay of information between a transit or for-hire operator and that operator's dispatcher. Infractions from the use of a wireless communications device while driving does not become part of the driver's driving record, and are not reported to insurance companies or employers.

AOC action: Update the law table if necessary.

ADDRESSING TRAFFIC INFRACTIONS INVOLVING RENTAL VEHICLES

HB 1371
Chapter 372, Laws 2007 (D,M)

Establishes a process for relieving a rental car business of liability for certain parking infractions at private parking facilities that occur while the vehicle was being rented.

TRAUMATIC BRAIN INJURY

2SHB 2055
Chapter 356, Laws 2007 (D,M)

Creates the traumatic brain injury account which is funded by a \$2 increase on traffic infractions. Assessment may be waived, suspended, or reduced.

AOC action: Create codes to accommodate new assessment.

INTERMEDIATE DRIVERS' LICENSE

SB 5036
Chapter 28, Laws 2007 (D,M)

See *Criminal*, Page 20.

CELL PHONE USE WHILE DRIVING

ESSB 5037
Chapter 417, Laws 2007 (D,M)

Makes operating a vehicle while holding a wireless communications device to one's ear a secondary traffic infraction. Infractions from the use of a wireless communications device while driving does not become part of the driver's driving record, and are not reported to insurance companies or employers.

Effective: July 1, 2008.

AOC action: Update the law table if necessary.

APPROACHING EMERGENCY VEHICLES

SSB 5078
Chapter 83, Laws 2007 (D,M)

Tow trucks and roadside assistance vehicles are added to the list of stationary emergency vehicles to which drivers must yield on approach; drivers must proceed with caution, reduce speed, and if reasonable and safe, yield the right-of-way by passing to the left. The requirement that drivers yield to stationary emergency or roadside assistance vehicles is expanded to highways with fewer than four lanes.

The circumstances under which a vehicle may be driven on the left side of a roadway are expanded to include when approaching stationary

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emergency or roadside assistance vehicles.

VEHICLES BOARDING FERRIES

SB 5088

Chapter 423, Laws 2007

(D,M)

Makes it a traffic infraction for a driver of a motor vehicle intending to board a Washington State ferry to: (1) block a residential driveway while waiting to board the ferry; or (2) move in front of another vehicle in a queue already waiting to board the ferry without the authorization of a state ferry system employee. Vehicles qualifying for preferential loading privileges are exempt. For a vehicle which moves in front of another vehicle, there is an additional penalty that requires the driver to move his or her vehicle to the end of the ferry queue. Such violations are not part of a driver's driving record.

AOC action: Update the law table if necessary.

ENFORCING ANIMAL HEALTH LAWS

2SSB 5204

Chapter 71, Laws 2007

(D,M)

Authorizes the Washington State Department of Agriculture (WSDA) to stop vehicles transporting animals on public roads to check for required animal health documents, and to impose a civil infraction upon persons not carrying required documents. WSDA officers may inspect vehicles at posted inspection points and, if they have reasonable cause to suspect a violation, at other places.

AOC action: Update the law table if necessary.

TIRES WITH RETRACTABLE STUDS

SSB 5206

Chapter 140, Laws 2007

(D,M)

Creates an exception to the prohibition on the use of studded tires between April 1 and November 1 for vehicles equipped year-round with tires that have retractable studs so long as the studs: retract below the tire wear bar; and are only used between November 1 and April 1.

MODIFYING PHOTO ENFORCEMENT OF TRAFFIC INFRACTION PROVISIONS

SSB 5391

Chapter 101, Laws 2007

(D,M)

The photo enforcement system statute for toll violations is changed to conform with the administrative provisions found in ESSB 5060, enacted in 2005. Toll violations detected through the use of photo enforcement systems must be processed in the same manner as parking infractions and the penalty is set at \$40 plus three times the toll. The \$40 penalty remains with the local jurisdiction processing the violation, and the "three times the toll" penalty must be deposited into the statewide account in which tolls are deposited for the respective tolling facility.

AOC action: Deploy accounting codes for use by courts receipting revenue from photo enforced toll violations.

COURT FUNDING & FEES

CHANGING TRAVEL REIMBURSEMENT PROVISIONS AFFECTING JUDGES OF THE COURT OF APPEALS

SB 5351

Chapter 34, Laws 2007

(A,AOC)

Authorizes the Court of Appeals to adopt rules to provide reimbursement to a judge of the Court of Appeals for work-related travel expenses from the judge's customary residence to the division headquarters of the court and back. If the judge is elected from or residing in the county in which the division is headquartered, he or she is not eligible for reimbursement for work-related travel expenses.

Court action: Adopt rules governing eligibility for reimbursement of travel expenses authorized by the statute.

AOC action: Modify COA Travel Manual. Communicate with COA regarding possible tax implications.

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MONEYS RECEIVED BY AN INMATE SB 5429

Chapter 365, Laws 2007 (S)

See *Criminal*, Page 16.

PROTECTING VULNERABLE ADULTS ESHB 1008

Chapter 312, Laws 2007 (S, AOC)

See *Civil*, Page 5.

PUBLIC GUARDIANSHIP OFFICE SSB 5320

Chapter 364, Laws 2007 (S,AOC)

See *Probate/Guardianship*, Page 9.

DISSOLUTION PROCEEDINGS 2SSB 5470

Chapter 496, Laws 2007 (S,AOC)

See *Family & Juvenile*, Page 10.

FEEES FOR SEXUAL ASSAULT PROTECTION PETITIONS

HB 1437

Chapter 55, Laws 2007 (S,D,M)

See *Civil*, Page 6

OVERPAYMENT TO COURTS HB 1994

Chapter 183, Laws 2007 (S,D,M)

Courts are allowed to retain overpayments of \$10 or less made in connection with any litigation, including traffic, criminal, or non-criminal matters. The overpayments must be deposited in the local current expense fund.

Court action: Change the Court Profile Maintenance (CPFM) screen's overpayment criteria to \$10 or less on July 22, 2007.

CHARITABLE DONATIONS SSB 6100

Chapter 367, Laws 2007 (S,D,M)

See *New & Amended Crimes*, Page 19.

COMBATING AUTO THEFT E3SHB 1001

Chapter 199, Laws 2007 (S,D,M,J,AOC)

See *Family & Juvenile*, Page 11.

JURISDICTION OVER MUNICIPAL COURT JUDGMENTS

SHB 1144

Chapter 46, Laws 2007 (D,M)

See *Civil*, Page 8.

SALARIES & BENEFITS

ADDRESSING THE PORTABILITY OF PUBLIC RETIREMENT BENEFITS

HB 1264

Chapter 207, Laws 2007 (ALL)

For employees with service credit in more than one state retirement system covered by the portability statutes, some rules are modified which affect the various ways for calculating their benefits at retirement.

AUTHORIZING THE PURCHASE OF AN INCREASED BENEFIT MULTIPLIER FOR PAST JUDICIAL SERVICE FOR JUDGES IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM AND THE TEACHERS' RETIREMENT SYSTEM

ESHB 1649

Chapter 123, Laws 2007 (ALL)

The cost to an individual judge for the purchase of up to 70 percent of past judicial service in the PERS and TRS system between the effective date of the act and December 31, 2007, is reduced from the actuarial value of the increase in the member's benefit to 5 percent of the salary earned for each month of service being purchased, plus interest for a member of Plan 1 or Plan 2, or 2.5 percent of the salary earned, plus interest, for a member of Plan 3. For purchases made after December 31, 2007, the judge must pay the actuarial value of the increase in the member's benefit. Judges who purchased the increased multiplier at higher costs before July 1, 2007, may apply between the effective date of the

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act and December 31, 2007, to have the difference in cost under the new formula recalculated, and have the difference reimbursed.

ELIMINATING RETIREMENT SYSTEM GAIN-SHARING AND PROVIDING ALTERNATE PENSION BENEFITS

EHB 2391

Chapter 491, Laws 2007 (ALL)

Gain-sharing is closed to members of PERS, TRS, and SERS Plans 3 who are hired after July 1, 2007. After the January 1, 2008, gain-sharing distribution, gain-sharing is eliminated for all members of the Plans 1 and Plans 3.

Early retirement benefits are improved for both members of the Plans 2 and 3 of PERS, SERS, and TRS. Members who have completed 30 or more years of service may retire early without reductions in benefits at age 62. (Between age 55 and 62, the reduction remains about three percent per year of early retirement so that the total reduction at age 55 is a reduction to 80 percent of a member's unreduced benefit.)

ESTABLISHING THE TERM OF EXISTENCE OF A COLLECTIVE BARGAINING AGREEMENT

ESB 5251

Chapter 75, Laws 2007 (ALL)

Under the Public Employees' Collective Bargaining Act (PECBA), the maximum allowable term for collective bargaining agreements between cities, counties, municipal corporations, and school districts and their respective employees is increased from three to six years.

DEFINING DISABILITY IN THE WASHINGTON LAW AGAINST DISCRIMINATION

SSB 5340

Chapter 317, Laws 2007 (ALL)

See *Civil*, Page 4.

ESTABLISHING FAMILY AND MEDICAL LEAVE INSURANCE

E2SSB 5659

Chapter 357, Laws 2007 (ALL)

A new partial wage replacement program is established. Beginning on October 1, 2009, benefits of \$250 per week for up to five weeks are

paid to individuals who are unable to perform their regular or customary work because they are on family leave. Program criteria, eligibility and administration are established.

A joint legislative task force on family leave insurance is created. The provision creating the task force expires July 1, 2009.

ALLOWING FOR DISTRIBUTIONS FROM THE JUDICIAL RETIREMENT ACCOUNT PURSUANT TO A DECREE OF DIVORCE

SB 5918

Chapter 108, Laws 2007 (S)

Distributions from the Judicial Retirement Account (JRA) are subject to division pursuant to a divorce decree or judgment that awards part of a member's account balance to an ex-spouse. Distributions are also subject to state community property laws. Technical clarifications are made to the statutes that govern the administration of other types of claims against a JRA, such as bankruptcy. The total benefits payable from a member's account are not altered.

OTHER

PUBLIC RECORDS—ATTORNEY INVOICES

SHB 1897

Chapter 391, Laws 2007 (ALL)

Clarifies the intent of the Legislature that the Public Records Act (RCW 42.56) does not allow attorney invoices to be withheld from disclosure in their entirety by public entities. The burden is on the public entity to justify each redaction in an attorney invoice and narrowly construe any exception to full disclosure.

INDIGENT DEFENSE GRANTS

HB 1793

Chapter 59, Laws 2007 (M)

Eliminates the limit on the number of cities eligible for indigent defense grants from the Office of Public Defense.

VICTIM INFORMATION AND NOTIFICATION SYSTEM

SB 5332

Chapter 204, Laws 2007 (NONE)

Requires the Washington Association of Sheriffs and Police Chiefs (WASPC) to integrate a victim notification system into its electronic statewide central booking and reporting system. The system must provide crime victims, who have subscribed to the system, notification of the release, transfer, discharge, or escape of the person convicted in their case, or a change in parole or probation status, in supervision status, and in the offender's address. The system would verify service of protective orders if requested by the victim. The system would also be required to provide notice of upcoming court hearings at which the victim may be present, such as parole or pardon hearings if such court information is made available to the administrator of the system.

AOC action: Monitor and review when the new JIS CMS and Data Warehouse become available.



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