



WASHINGTON
COURTS

SUMMARY
Of Selected
2008 LEGISLATION
Of Interest to the Courts

REVISED
May 21, 2008

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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.

2008 Legislative Summary

We are pleased to present a **Summary of Selected 2008 Legislation of Interest to the Courts** and hope it will be useful to implement bills that impact your court. During the 2008 legislative session, the Legislature and Governor enacted **72** 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 June 12, 2008**. Partial vetoes by the Governor are indicated under the bill number. 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 Mellani McAleenan at 360-357-2113 for general legislative inquiries.

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CIVIL

MODIFYING ADDRESS CONFIDENTIALITY PROGRAM PROVISIONS

SHB 1421

Chapter 18, Laws 2008 (S)

The term “stalking” is defined for purposes of the Secretary of State’s address confidentiality program.

If requested by a law enforcement agency, the Secretary of State may make a participant’s file available to the law enforcement agency if the participant did not indicate that the perpetrator of the domestic violence, sexual assault, or stalking was a law enforcement employee.

A court order for the release of participant information is only allowed upon a probable cause finding that the disclosure is legally necessary.

LIMITING THE OBLIGATIONS OF LANDLORDS UNDER WRITS OF RESTITUTION

ESHB 1865

Chapter 43, Laws 2008 (S, D/M)

Governor partial veto (emergency clause)

The bill changes the obligations of landlords with regard to the storage of property of a tenant who has been evicted.

AOC action: Update landlord-tenant section of CLJ Civil benchbook.

REVISING PROVISIONS INVOLVING COURT INTERPRETERS

2E2SHB 2176

Chapter 291, Laws 2008 (S, D/M, J)

Each trial court is required to develop a written language assistance plan outlining its provision of interpreter and other language assistance services for non-English speaking persons, developed in consultation with court-related agencies and non-English speaking community groups. By November 15, 2009, each court receiving reimbursement for interpreter expenses must provide the AOC with a report that: (1) assesses the need for interpreter services for

participants in court-mandated classes or programs and the resources required to provide such interpreter services; and (2) includes the amount spent on interpreter services for fiscal years 2005 – 2009. Subject to availability of funds, the AOC shall reimburse courts for up to one-half of the payment for interpreter expenses in all cases of sign language and in cases of foreign language where (1) certified and registered interpreters are used – or qualified interpreters for non-certified and non-registered languages, (2) the requesting court has a language assistance plan, and (3) the interpreter fee paid is in accordance with AOC standards.

Court action: Each trial court must develop a language assistance plan.

AOC action: AOC shall reimburse courts for interpreter services under certain circumstances.

WIRELESS NUMBER DISCLOSURE

2SHB 2479

Chapter 271, Laws 2008 (S)

Requires a subscriber’s consent for disclosure of wireless telephone numbers and creates a new civil fine for a violation of the statute; enforceable by the attorney general.

AOC action: Plan for JIS impact.

IMPROVING THE OPERATIONS OF THE TRIAL COURTS

2SHB 2557

Chapter 227, Laws 2008 (S, D/M)

The amount of money at issue to sue in district and small claims courts is increased to \$75,000 and \$5,000 respectively.

District court commissioners cannot preside over trials in criminal matters, or over civil jury trials, unless agreed to by all parties, beginning July 1, 2008. This provision becomes effective for municipal court commissioners (except in Seattle Municipal Court) on July 1, 2010.

Uniform procedure is created for disqualifying district and municipal judicial officers, where conflict of interest is alleged.

2008 Legislative Summary

Cities may no longer create municipal departments for court services under Chapter 3.46 RCW. However, existing municipal departments may continue to operate.

Court actions: District courts may see an increase in civil cases due to the increase in the amount at issue. Correspondingly, superior courts may see a decrease in cases. These shifts will create changes in revenue and costs. The limitation on commissioner work will cause a shift in workload to district judges.

AOC actions: Updates to all publications which describe the previous dollar amount at issue jurisdiction need to be updated, including the juror guide. Refer to DMCJA Rules Committee for review of CrRLJ 8.9, IRLJ 2.6(g), and CRLJ 40(f) re affidavits of prejudice.

Effective date: July 1, 2008. Section 8 (4) is effective July 1, 2010.

EMPLOYMENT LEAVE FOR VICTIMS OF DOMESTIC VIOLENCE, SEXUAL ASSAULT OR STALKING

SHB 2602

Chapter 286, Laws 2008 (ALL)

Requires employers to provide reasonable leave to employees who are victims of domestic violence, sexual assault, or stalking, or whose family members are victims; and provides an administrative remedy through Labor & Industries and a civil remedy through the court system.

Effective date: April 1, 2008.

CHILDREN'S SAFE PRODUCTS ACT

E2SHB 2647

Chapter 288, Laws 2008 (S, D/M)

Governor partial veto (sections 1 and 8)

This bill requires the state to develop numerous safety standards relating to chemicals in products for children. Section 7 creates a new civil penalty for violation of the standards, with the penalty to be paid into the state toxics control account.

AOC action: Plan for JIS impact.

CRIMINAL STREET GANGS

E2SHB 2712

Chapter 276, Laws 2008 (S, D/M, J)

The following are authorized: (1) creation of grant programs to target gang crime and graffiti; (2) creation of a statewide gang database; (3) certain penalties and costs a property owner may recover for graffiti damage; and (4) creation of a temporary assistance program for witnesses of gang-related felonies.

Penalties are increased when an adult involves a minor in a gang-related felony. The list of aggravating factors is expanded to include any crime committed to benefit a gang. Courts must impose community custody if a gang member unlawfully possesses a firearm.

AOC action: JIS create/update codes and law tables as necessary. Review juvenile court forms for possible revisions.

EXTENDING PERSONALITY RIGHTS TO DECEASED PERSONS

SHB 2727

Chapter 62, Laws 2008 (S, D/M)

This bill clarifies the existing state statutes relating to a person's right to his or her "personality rights" and the ownership of a deceased person's personality rights. Personality rights can be owned and may be transferred like any other personal property.

Provides property right in the use of a person's name, voice, signature, photograph, or likeness exists in the name, voice, signature, photograph, or likeness of individuals or personalities deceased before, on, or after June 11, 1998.

2008 Legislative Summary

HOME OWNERSHIP SECURITY

SHB 2770

Chapter 108, Laws 2008 (S)

A number of new disclosures and other requirements for the mortgage industry for the purpose of protecting borrowers and potential borrowers are created. Also creates several new felonies related to the knowing violation of the new requirements.

AOC action: Amend JIS Law Table.

CONCERNING DISTRESSED HOME CONVEYANCES

HB 2791

Chapter 278, Laws 2008 (S, D/M)

The equity skimming laws are expanded to cover distressed home consultants and distressed home conveyances. Equity skimming is a class B felony and a violation of the Consumer Protection Act.

Distressed home consultants are defined as third parties who offer to provide mortgage, debt, or credit services to a homeowner who is in danger of foreclosure.

Distressed home consultants are regulated by requiring a written contract and imposing a fiduciary duty on the consultant.

The bill regulates distressed home conveyances or sale-lease-back transactions between homeowners at risk of foreclosure and third parties.

The contract must be in writing, the seller of the home has five days to cancel, and the buyer of the home must verify that the seller is capable of exercising the right to repurchase within the allowable period.

In an eviction proceeding, the landlord must disclose to the court that the tenant previously held title to the property at issue if the property was part of a distressed home conveyance.

SPYWARE REGULATION

SHB 2879

Chapter 66, Laws 2008 (S, AOC)

Several computer-related actions are added, collectively known as "spyware," to the existing computer spyware statute. The burden of proof is changed for certain spyware provisions.

ESTATE DISTRIBUTION DOCUMENTS

2SHB 3012

Chapter 161, Laws 2008 (S)

Documents, instruments, writings, or marketing materials relating to a transfer on death account established under RCW 21.35 are specifically exempt in the definition of "estate distribution document."

EXPANDING RIGHTS AND RESPONSIBILITIES FOR DOMESTIC PARTNERSHIPS

2SHB 3104

Chapter 6, Laws 2008 (S, D/M)

Procedures for dissolution apply to domestic partners. Child support, maintenance, and parenting plan obligations, and procedures for enforcing such orders, apply to domestic partners. Property of domestic partners is subject to community property, which applies from the date of the parties' registration. A domestic partner's property is obligated to family expenses and education of the children. Property assigned from one domestic partner to another under a dissolution decree is exempt from real estate excise tax. To terminate a domestic partnership, a domestic partner must file a petition for dissolution in superior court and follow the same procedures applicable to dissolution of marriages. Vital Statistics has developed a certificate of dissolution for registered domestic partnerships that must be completed and send to Department of Health upon entry of the decree. Once per month, the State Registrar of Vital Statistics must submit a list of persons who have dissolved their domestic partnerships to the Secretary of State.

By January 1, 2009, affected agencies shall adopt rules to implement the provisions of this act.

2008 Legislative Summary

Court action:

- 1) Adds domestic partner to spousal privilege
- 2) Adds domestic partner to election law family provisions
- 3) Adds domestic partner to domestic violence protection order provision

AOC action: JIS involvement creating new relationship and cause of action codes (domestic relations RCW Title 26, dependency and termination Chapter 13.34 RCW). Extensive revisions of mandatory pattern forms and updating of benchbooks and manuals.

Effective dates: Section 1043 of this act expires January 1, 2009. Section 1044 of this act takes effect January 1, 2009. Section 1047 of this act takes effect July 1, 2009.

MODIFYING DEEDS OF TRUST PROVISIONS SSB 5378

Chapter 153, Laws 2008 (S)

The trustee of a deed of trust must act impartially between the borrower, grantor, and beneficiary.

The trustee may decline to complete a foreclosure sale if it appears that the bidding has been collusive or defective, or that the sale might have been void.

If the trustee postpones a foreclosure sale, the trustee must provide written notice to the borrower, grantor, and junior lien holders. Such notice must be provided by certain time periods, depending on how far into the future the sale is postponed.

The trustee must maintain physical presence and telephone service at a Washington address.

CIGARETTE IGNITION

2SSB 5642

Chapter 239, Laws 2008 (S, D/M)

Beginning August 1, 2009, only reduced ignition strength cigarettes may be sold in Washington. The provisions of the bill may be enforced civilly by the Attorney General or the state fire protection director.

Civil penalties assessed for violation of this chapter must be paid into a new account in the state treasurer's office.

Effective date: August 1, 2009.

ADDRESSING UNLAWFUL DETAINER ACTIONS BASED ON NONPAYMENT OF RENT SSB 6060

Chapter 75, Laws 2008 (S)

If a landlord uses the procedures that require a tenant to pay rent into the court registry or submit a statement why rent is not owed, the landlord must file the eviction summons and complaint with the court.

The notice form provided in statute is changed to reflect that it is a separate notice from the summons and complaint and to provide specific directions to the tenant.

If the notice is served with the summons and complaint, then the deadline date to comply with the requirements and the deadline date to respond to the summons and complaint must be the same date.

AOC action: Refer to Pattern Forms Committee for update.

DOMESTIC VIOLENCE SERVICES OF PROCESS

ESB 6357

Chapter 287, Laws 2008 (S, D/M)

In situations where the petitioner for a domestic violence protection order cannot obtain timely personal service of the hearing notice on the opposite party, the court must set a new hearing date and either requires one additional attempt to obtain personal service or permit service by newspaper publication or mail. These rules also apply in situations when a person seeks to modify a protection order.

AOC action: Review and possible revision of pattern forms.

2008 Legislative Summary

LICENSING OF HOME INSPECTORS

ESSB 6606

Chapter 119, Laws 2008 (D/M)

The Department of Licensing may issue civil infractions if a person: conducts a home inspection without being licensed; uses the license of another; gives false evidence to the Director in obtaining a license; falsely impersonates another licensee; or attempts to use an expired or revoked license. The Director may also apply for relief by injunction to restrain a person from the commission of a prohibited act.

AOC action: Amend JIS Law Table.

FAMILY & JUVENILE

MODIFYING DIVERSION RECORDS PROVISIONS

HB 1141

Chapter 221, Laws 2008 (S, J)

The juvenile criminal history records of a person who is eighteen years of age must be automatically destroyed if: (1) the person's criminal history consists of only one diversion or "counsel and release" which was successfully completed; (2) two years have passed since completion of the diversion or counsel and release; and (3) no restitution is owing. The Administrative Office of the Courts, juvenile court, Washington State Patrol, local law enforcement, and the prosecutor's office must coordinate to ensure that all records are destroyed. State and local governments are not liable for civil damages for the failure to destroy records.

AOC action: Plan for JIS impact. Develop working plan with juvenile courts, WSP, local law enforcement and local prosecuting attorneys for identification and destruction of appropriate records. Update Criminal Records Brochure as needed.

REVISING PROVISIONS INVOLVING COURT INTERPRETERS

2E2SHB 2176

Chapter 291, Laws 2008 (S, D/M, J)

See *Civil*, Page 4.

EXPANDING THE TYPES OF JUVENILE TREATMENT PROGRAMS

SHB 2551

Chapter 158, Laws 2008 (S, J)

Treatment programs available to a juvenile offender under a suspended disposition alternative are expanded and may be either evidence-based or research-based best practice programs. The terms evidence-based and research-based are defined. A treatment program does not need to be approved by the Washington State Institute for Public Policy or the Joint Legislative Audit and Review Committee to be used under a suspended disposition alternative.

AOC action: Disseminate information to juvenile court administrators.

CREATING PROGRAMS TO IMPROVE EDUCATIONAL OUTCOMES FOR STUDENTS IN FOSTER CARE

SHB 2679

Chapter 297, Laws 2008 (J)

Governor partial veto (sections 1, 3, 4 and 6)

The Puget Sound Educational Service District (ESD) must: (1) designate a foster care program supervisor to coordinate programs and services for students in foster care; and (2) create a grant program for local school districts to improve stability and educational outcomes for students in foster care. The Superintendent of Public Instruction must report annually to the Legislature on the educational experiences and progress of students in foster care. The Department of Social and Health Services (DSHS) must fund two school district-based foster care recruitment pilots in one or more school districts. Education records of students who are the subject of child dependency cases must be transmitted to DSHS within two days after receiving DSHS's request.

AOC action: Disseminate information to all juvenile courts.

2008 Legislative Summary

DNA IDENTIFICATION

2SHB 2713

Chapter 97, Laws 2008 (S, D/M, J)

Increases the number of offenses for which an offender must have a biological sample collected for purposes of DNA identification analysis; applies to adults and juveniles.

The bill also changes the accounts into which the county clerk must distribute the fee collected for taking the DNA sample.

AOC action: Refer to Pattern Forms Committee and to JIS.

FAMILY AND JUVENILE COURT IMPROVEMENT PROGRAM

2SHB 2822

Chapter 279, Laws 2008 (S, J)

A grant program is created for the improvement of family and juvenile courts. It requires courts, in order to be eligible for grants, to meet certain criteria, including: (1) the assignment of a chief judge to the family and juvenile court for at least two years; (2) implementation of one judicial team hearing all proceedings in a case involving one family; and (3) requiring specialized training of judicial officers.

AOC action: Possible action in the following areas. JSD Education Unit involvement for education sessions. Human Resources Office creation, posting and hiring for grant program manager. JIS involvement for creation of new codes for case assignment to specific judicial teams and/or UFC. JSD Research Unit involvement defining appropriate outcome measures, collecting data, gathering information from courts receiving grants, and reporting to the legislature regarding financial expenditures, progress and improvements.

FEDERAL CRIMINAL HISTORY CHECKS

HB 2835

Chapter 232, Laws 2008 (S, J)

In an emergency situation in which a child must be placed in out-of-home care, the Department of Social and Health Services (DSHS) must request

a federal name-based criminal history check of every adult residing in the foster home. DSHS must provide a complete set of fingerprints for every adult in the home to the Washington State Patrol within fourteen days.

DSHS must inquire whether a foster parent applicant has ever resided in a foreign state or country, and check available databases to ascertain whether the applicant has ever been the subject of a criminal conviction or negative civil finding in the foreign state or country that bears upon the applicant's fitness to be a foster parent.

EXPANDING RIGHTS AND RESPONSIBILITIES FOR DOMESTIC PARTNERSHIPS

2SHB 3104

Chapter 6, Laws 2008 (S, D/M)

See *Civil*, Page 6.

CHILD LONG-TERM WELL-BEING

E2SHB 3205

Chapter 152, Laws 2008 (S, J)

Requires the court to direct the filing of a petition to terminate parental rights when a child has been in foster care for fifteen of the past twenty-two months, unless the court determines there is good cause why a petition should not be filed. The Children's Trust of Washington (formerly the Washington Council for the Prevention of Child Abuse and Neglect) is renamed the Council for Children and Families.

AOC action: JIS update and update Nonoffender Juvenile benchbook.



2008 Legislative Summary

CONCERNING AGENCY REVIEWS AND REPORTS REGARDING CHILD ABUSE, NEGLECT, AND NEAR FATALITIES

2SSB 6206

Chapter 211, Laws 2008 (S, J, AOC)

If a fatality occurs as the result of apparent abuse by the child's parent or caretaker, the Child Fatality Review (CFR) must be comprised of individuals who have had no involvement in the child's case. The Department of Social and Health Services (DSHS) must create a public web site where all CFR reports are to be posted and maintained. The Office of the Family and Children's Ombudsman (OFCO) must review a sample of child abuse and neglect referrals made by mandated reporters to DSHS during 2006 and 2007 and report to the Legislature by June 30, 2009, on its findings. DSHS must promptly notify OFCO when a report of child abuse or neglect constitutes the third founded report on the same child or family within a twelve month period. DSHS must promptly notify a dependent child's guardian ad litem when it receives a report of child abuse or neglect on the child. DSHS must also notify the guardian ad litem of the disposition of the report.

AOC action: Revise training curriculum for volunteer guardians ad litem in Chapter 13.34 RCW actions.

Effective date: Section 4 of this act expires October 1, 2008. Section 5 of this act takes effect October 1, 2008.

VISITATION RIGHTS FOR RELATIVES OF DEPENDENT CHILDREN

SSB 6306

Chapter 259, Laws 2008 (S, J)

A relative of a legally free dependent child who has not been adopted and is not in a preadoptive placement may petition the juvenile court for reasonable visitation with the child in certain circumstances. The term relative does not include the child's parent. The court may modify the visitation order at any time upon a showing that the visitation poses a risk to the child's safety or well-being. The visitation order terminates upon the child's placement in a pre-adoptive home or if

a subsequent abuse or neglect allegation is founded against the relative.

AOC action: JIS update. Create new pattern forms for relative visitation proceedings.

DOMESTIC VIOLENCE SERVICES OF PROCESS

ESB 6357

Chapter 287, Laws 2008 (S, D/M)

See *Civil*, Page 7.

DEPENDENCY MATTERS

ESSB 6792

Chapter 267, Laws 2008 (S, J)

Establishes a standard of proof and makes certain procedural changes and clarifications for petitions to reinstate parental rights. References are added in child abuse and neglect hearing provisions relating to child safety, placement with a non-abusing parent, and restraining orders entered against an alleged abuser. Establishes a schedule of monthly visits for children in foster care and requires accredited supervising agencies to conduct visits for the cases they supervise. A process is established for the sharing of information between the Department of Social and Health Services and the Department of Licensing to facilitate youth in foster care obtaining a state identification card. Clarifies and changes provisions relating to street youth, HOPE centers, and responsible living skills programs. Allows children ages twelve years and older who are the subject of dependency proceedings to receive notice, be present, and be heard in proceedings under a pilot program in four Washington counties (King, Thurston, Spokane, Benton-Franklin).

AOC action: JIS update. Set up pilot sites and measurements for report due to the legislature. Disseminate information to juvenile court administrators. Create new temporary order for reinstatement of parental rights proceedings.

2008 Legislative Summary

CRIMINAL

ENHANCING THE PENALTY FOR ELUDING A POLICE VEHICLE

ESHB 1030

Chapter 219, Laws 2008 (S)

Provides that the prosecuting attorney may file a special allegation of endangerment by eluding in every criminal case involving a charge of attempting to elude a police vehicle under RCW 46.61.024, when sufficient admissible evidence exists, to show that another person was threatened with physical injury or harm by the actions of the person committing the crime of attempting to elude a police vehicle.

Provides that in a criminal case in which there has been a special allegation the state shall prove beyond a reasonable doubt that the accused committed the crime while endangering another person. The court shall make a finding of fact of whether or not another person was endangered at the time of the commission of the crime, or if a jury trial is had, the jury shall, if it finds the defendant guilty, also find a special verdict as to whether or not another person was endangered during the commission of the crime.

Provides that an additional twelve months and one day shall be added to the standard sentence range for a conviction of attempting to elude a police vehicle as defined by RCW 46.61.024, if the conviction included a finding by special allegation of endangering another person under this act.

Pattern Forms Committee: Possible inclusion in Judgment and Sentencing forms.

AOC action: Plan for JIS impact.

REVISING PROVISIONS INVOLVING COURT INTERPRETERS

2E2SHB 2176

Chapter 291, Laws 2008 (S, D/M, J)

See *Civil*, Page 4.

AUTHORIZING TRIBAL POLICE OFFICERS TO ACT AS GENERAL AUTHORITY WASHINGTON STATE PEACE OFFICERS

EHB 2476

Chapter 224, Laws 2008 (S, D/M, J)

This bill authorizes tribal police officers to act as general authority Washington peace officers, enabling them to enforce state laws in Washington. For tribal police officers to be authorized, the tribe must submit proof of liability and damage insurance and proof that the officers have received the required tribal officer training to OFM. Any new citation resulting from this bill, excluding those issued to Indians within a reservation, shall be to a Washington court.

Court action: This could impact local courts by generating new citations, and with a potential increase in fees. This could impact the court administrators if it is assumed that the tribal police officers will be required to use AOC promulgated citation forms for enforcement of state laws. This would be a new and unique set of law enforcement agencies with which to coordinate consistent administration of AOC approved infraction and criminal citation forms. This may require outreach and training.

AOC action: Tribal police departments would be new law enforcement agencies to put into the judicial information system, as requested by the tribal police.

Effective date: July 1, 2008.

IMPROVING THE OPERATIONS OF THE TRIAL COURTS

2SHB 2557

Chapter 227, Laws 2008 (S, D/M)

See *Civil*, Page 4.

CRIMINAL CASE RECORDS

HB 2637

Chapter 21, Laws 2008 (S, D/M)

Requires that a recipient of a properly served criminal process (search warrant or legal process pursuant to certain specified statutes of Criminal Rule 2.3) provide the applicant all records sought.

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Foreign persons or businesses are required to respond to a search warrant or legal process issued by a judge of the superior court in a criminal matter as though it were issued in their home state. A Washington recipient, when served with process that was issued by or in another state that on its face purports to be valid criminal process shall comply with that process as if that process had been issued by a Washington court. It allows the records custodian to verify authenticity through an affidavit, declaration or certification without the need for testimony from the record custodian.

Court action: Superior courts may issue criminal legal process to entities regardless of whether the records or the owner of the records are physically located in Washington.

AOC action: Refer to SCJA Criminal Law and Rules Committee for review of current state court rules for potential amendment.

CRIMINAL STREET GANGS

E2SHB 2712

Chapter 276, Laws 2008 (S, D/M, J)

See *Civil*, Page 5.

DNA IDENTIFICATION

2SHB 2713

Chapter 97, Laws 2008 (S, D/M, J)

See *Family & Juvenile*, Page 9.

MAKING FAILURE TO REGISTER AS A SEX OFFENDER A CLASS B FELONY

2SHB 2714

Chapter 230, Laws 2008 (S)

This bill changes provisions concerning registration of sex offenders and kidnapping offenders. It increases the penalty for failure to register to a class B offense if the underlying conviction was for a felony offense.

AOC action: Refer to Pattern Forms Committee.

Effective date: Sections 1 through 3 of this act take effect ninety days after adjournment sine die of the 2010 legislative session.

ENSURING THAT OFFENDERS RECEIVE ACCURATE SENTENCES

HB 2719

Chapter 231, Laws 2008 (S)

Sections 1 – 5 of this bill clarify the procedure for proof of criminal history during sentencing proceedings under the Sentencing Reform Act (SRA). Sections 6-62 change the terminology used in the SRA for supervision of offenders.

AOC action: Refer to Pattern Forms Committee.

Effective date: Sections 6-62 will require redrafting of the pattern Judgment and Sentencing forms; however, those sections are not effective until August 1, 2009.

HOME OWNERSHIP SECURITY

SHB 2770

Chapter 108, Laws 2008 (S)

See *Civil*, Page 6.

AMBER ALERTS

HB 2774

Chapter 91, Laws 2008 (S)

Creates a new felony related to a person giving false information which results in an "Amber Alert."

AOC action: Amend JIS Law Table.

CONCERNING DISTRESSED HOME CONVEYANCES

HB 2791

Chapter 278, Laws 2008 (S, D/M)

See *Civil*, Page 6.

METHAMPHETAMINE CONTAMINATION [VEHICLES AND VESSELS]

E2SHB 2817

Chapter 201, Laws 2008 (D/M)

This bill makes it a crime to knowingly sell boats or vehicles which have been declared unfit by the local health officer as a result of methamphetamine contamination. This bill creates a new gross misdemeanor.

2008 Legislative Summary

Court action: *NonJIS courts will need to amend their local law tables.*

AOC action: *Amend JIS Law Table.*

FILING OF POLICE INCIDENT REPORTS FOR VICTIMS OF IDENTITY THEFT

SB 5878

Chapter 207, Laws 2008 (S, D/M)

The Legislature intends that there be a separate prosecution for each victim and each act of improperly obtaining or using the identification or financial information of an individual person.

The bill requires that each crime be punished separately unless it is the same criminal conduct as any other crime. A series of transactions involving a single person's means of identification may be aggregated into one count so that the sum of the value will determine the degree of identity theft involved.

ADDRESSING MOST SERIOUS OFFENSES

SSB 6184

Chapter 7, Laws 2008 (S)

The definition of "most serious offense" is amended to include any out-of-state conviction for a felony offense with a finding of sexual motivation if the minimum sentence imposed was ten years or more. The defendant's out-of-state conviction must meet the required elements of a felony under Washington law, and the conduct must meet the statutory test in Washington for sexual motivation.

AOC action: *Refer to Pattern Forms Committee review.*

DEFINITION OF A WEAPON

SSB 6322

Chapter 33, Laws 2008 (ALL)

The list of weapons that may not be brought into areas of buildings used in connection with court proceedings is broadened. All previously excluded items (e.g., any firearm, explosive, slung shot, sand club, metal knuckles, and several types of knives) remain on the list. The list now includes any knife, dagger, dirk, or other similar weapon

that is capable of causing death or bodily injury and is commonly used with the intent to cause death or bodily injury regardless of intent to conceal, thus expanding the list of weapons for which it is a gross misdemeanor to possess when entering court-related facilities.

AOC action: *Amend JIS Law Table.*

INCARCERATED PERSONS

SSB 6400

Chapter 104, Laws 2008 (S)

The Department of Corrections (DOC) must establish a committee including representative from specialty courts to develop a plan to provide voluntary, nondenominational, moral and character-building residential services and supports for offenders incarcerated in prison. DOC chaplains are not required to violate the tenets of their faith when acting in a purely ecclesiastical role. DOC chaplains may request the Attorney General to authorize the defense of any proceeding for damages instituted against the chaplain.

AOC action: *Notify courts of representatives needed for advisory committee and for liaison work with Children and Families of Incarcerated Parents Advisory Committee.*

INCREASING THE SENTENCING RANGE FOR FIRST DEGREE CRIMINAL MISTREATMENT

SSB 6544

Chapter 38, Laws 2008 (S)

This bill increases the seriousness level of the felony crime of criminal mistreatment.

SEX OFFENDER POLICY BOARD

SSB 6596

Chapter 249, Laws 2008 (S)

Establishes a new board to study and make recommendations in the area of sex offender policy. The new board is to be established by, but be independent of, the Sentencing Guidelines Commission. The SCJA has one appointment to this new board. Pursuant to 2SHB 2714, also passed this year, this board will be undertaking a review of the numerous sex offender and

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kidnapping registration provisions, with a report due to the legislature by November 1, 2009.

MENTAL HEALTH TREATMENT

SB 6628

Chapter 318, Laws 2008 (S, D/M)

This bill clarifies that DSHS may seek to recover the costs of mental health treatment provided during restoration of competency proceedings.

AOC action: Refer to Pattern Forms Committee.

CHANGING RULES CONCERNING ADMISSIBILITY OF EVIDENCE IN SEX OFFENSE CASES

SSB 6933

Chapter 90, Laws 2008 (S, D/M, J)

Changes the evidentiary rule regarding admissibility of evidence of past sex crimes. It provides factors which the trial judge must consider in evaluating whether evidence offered under the rule should be excluded. The bill's provisions are based on Federal Rules of Evidence 413 and 414.

AOC action: Inform the judiciary through publications and education programs.

NEW & AMENDED CRIMES

ENHANCING THE PENALTY FOR ELUDING A POLICE VEHICLE

ESHB 1030

Chapter 219, Laws 2008 (S)

See *Criminal*, Page 10.

CHANGING PROVISIONS CONCERNING ELECTRONIC DEVICES

ESHB 1031

Chapter 138, Laws 2008 (S)

This bill creates a new felony related to the unauthorized collecting of information by an electronic device. A person that intentionally scans another person's electronic identification device remotely, without that person's prior knowledge and prior consent, for the purpose of

fraud, identity theft, or for any other illegal purpose, is guilty of a class C felony.

AOC action: Amend JIS Law Table.

REVISED UNIFORM ANATOMICAL GIFT ACT 2ESHB 1637

Chapter 139, Laws 2008 (S)

Repeals an existing felony under RCW 68.50.610 and creates two new ones under Sections 16 and 17 of the bill.

AOC action: Amend JIS Law Table.

PUBLIC TRANSPORTATION FARES ESHB 2480

Chapter 123, Laws 2008 (D/M)

Allows most transit agencies to adopt an expedited fare payment system that includes designating monitors to randomly check for fare payment once passengers are on the bus or train, as opposed to taking payment one passenger at a time when they enter the vehicle. This allows issuance of civil infractions for fare payment violations, including failure to provide proof of payment upon request of transit authority personnel.

Court action: Creates new types of civil infractions for district courts. Local law tables should be updated.

AOC action: Transit authorities would be new law enforcement agencies to put into the judicial information system, as requested by the transit authorities.

PROTECTING ORCA WHALES FROM IMPACTS FROM VESSELS

2SHB 2514

Chapter 225, Laws 2008 (D/M)

Creates a new infraction and provides for certain unlawful acts when approaching, intercepting, or feeding a southern resident orca whale, and provides for certain exemptions from these acts.

AOC action: Update JIS Law Table; nonJIS courts will need to amend their local law tables.

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CIGARETTE TAXES

HB 2542

Chapter 226, Laws 2008 (S)

Amends existing cigarette tax laws and regulations by updating the threshold quantity of unstamped cigarettes prohibited by federal law.

This bill establishes the same crime for possessing or receiving unstamped cigarettes as in current law for transporting unstamped cigarettes.

Requires advance notice to the Liquor Control Board of receipt of unstamped cigarettes.

AOC action: Amend JIS Law Table.

HUMAN REMAINS

E2SHB 2624

Chapter 275, Laws 2008 (D/M)

This bill requires any person who discovers skeletal human remains to notify the coroner and local law enforcement in the most expeditious manner possible. Any person knowing of the existence of human remains and not having good reason to believe that the coroner and local law enforcement has notice thereof and who fails to give notice thereof is guilty of a misdemeanor. Creates three new misdemeanors related to violation of these duties.

Court action: NonJIS courts will need to amend their local law tables.

AOC action: Amend JIS Law Table.

CRIMINAL STREET GANGS

E2SHB 2712

Chapter 276, Laws 2008 (S, D/M, J)

See *Civil*, Page 5.

MAKING FAILURE TO REGISTER AS A SEX OFFENDER A CLASS B FELONY

2SHB 2714

Chapter 230, Laws 2008 (S)

See *Criminal*, Page 12.

ADDRESSING THE READING AND HANDLING OF CERTAIN IDENTIFICATION DOCUMENTS

SHB 2729

Chapter 200, Laws 2008 (S)

Relates to the misuse of personal information provided by persons who apply for the new enhanced driver's license and identicaid, and misuse of information stored in the enhanced driver's licenses; creates a new felony.

AOC action: Amend JIS Law Table.

HOME OWNERSHIP SECURITY

SHB 2770

Chapter 108, Laws 2008 (S)

See *Civil*, Page 6.

AMBER ALERTS

HB 2774

Chapter 91, Laws 2008 (S)

See *Criminal*, Page 12.

HUCKLEBERRIES

SHB 2779

Chapter 191, Laws 2008 (S, D/M)

A person planning to sell raw or unprocessed huckleberries is required to obtain a specialized forest products permit before conducting the sale.

The permit holder is required to obtain permission from the landowner prior to harvesting huckleberries.

The buyer is required to record the permit number, the name and the license plate number of the seller, and the amount of huckleberries purchased.

AOC action: Amend JIS Law Table.

METHAMPHETAMINE CONTAMINATION [VEHICLES AND VESSELS]

E2SHB 2817

Chapter 201, Laws 2008 (D/M)

See *Criminal*, Page 12.

2008 Legislative Summary

EXPANDING METAL PROPERTY PROVISIONS

SHB 2858

Chapter 233, Laws 2008 (S)

A new category of metal property is created called private metal property. It is defined as meaning catalytic converters, either singly or in bundles, bales, or bulk, that have been removed from vehicles for sale as a specific commodity. Scrap metal businesses entering into a transaction to purchase or receive private metal property from a member of the general public or a commercial enterprise are subject to the same record keeping requirements and penalties as those required for transactions involving non-ferrous metal property and commercial metal property.

DUI LIQUOR/DRUGS

E2SHB 3254

Chapter 282, Laws 2008 (S, D/M)

Governor partial veto (section 18)

The felony DUI law is amended. It is a felony DUI if the offender has a prior out-of-state conviction that is comparable to a Washington conviction for DUI-related vehicular homicide or DUI-related vehicular assault.

An ignition interlock drivers license (IIDL) is created that allows a person to drive while his or her regular license is suspended, revoked or denied due to driving under the influence of alcohol or any drug. Any person whose license is so suspended may apply for an IIDL at any time, and have an ignition interlock device installed on all vehicles operated by that person. If a person is convicted of DUI-alcohol, the court must order the offender to apply for the IIDL, with limited exceptions. A prosecutor may appeal an order granting a deferred prosecution if the court failed to order the installation of an interlock or other device as required in statute.

Court action: *New options for DUI cases.*

AOC action: *Refer to Pattern Forms Committee for review to determine if any changes to the DUI Plea and Judgment and Sentencing forms and DUI Sentencing Grid are necessary.*

Effective date: *Sections 2, 4 through 8, and 11 through 14 of this act take effect January 1, 2009.*

DEFINING CIVIL DISORDER

SB 5868

Chapter 206, Laws 2008 (S, J)

This bill provides that "civil disorder" means any public disturbance involving acts of violence that is intended to cause an immediate danger of, or to result in, significant injury to property or the person of any other individual.

ADDRESSING MOST SERIOUS OFFENSES

SSB 6184

Chapter 7, Laws 2008 (S)

See *Criminal*, Page 13.

DEFINITION OF A WEAPON

SSB 6322

Chapter 33, Laws 2008 (ALL)

See *Criminal*, Page 13.

FAILURE TO TRANSFER MOTOR VEHICLE TITLE AND REGISTRATION

SSB 6527

Chapter 316, Laws 2008 (D/M)

Provides that failure to apply to transfer motor vehicle ownership within forty-five days is now a continuing misdemeanor offense for each day during which the purchaser or transferee does not make such application. Although a continuing defense, it is a single offense, regardless of the number of days that have elapsed following the forty-five day time period.

LICENSING OF HOME INSPECTORS

ESSB 6606

Chapter 119, Laws 2008 (D/M)

See *Civil*, Page 8.

INFRACTIONS

AUTHORIZING TRIBAL POLICE OFFICERS TO ACT AS GENERAL AUTHORITY WASHINGTON STATE PEACE OFFICERS

EHB 2476

Chapter 224, Laws 2008 (S, D/M, J)

See *Criminal*, Page 11.

PUBLIC TRANSPORTATION FARES

ESHB 2480

Chapter 123, Laws 2008 (D/M)

See *New & Amended Crimes*, Page 14.

PROTECTING ORCA WHALES FROM IMPACTS FROM VESSELS

2SHB 2514

Chapter 225, Laws 2008 (D/M)

See *New & Amended Crimes*, Page 14.

SNOWMOBILE REGISTRATION

ESSB 5179

Chapter 52, Laws 2008 (D/M)

Snowmobiles are required to be registered only if operated; it is already a traffic infraction for operating without a valid registration decal.

LICENSING OF HOME INSPECTORS

ESSB 6606

Chapter 119, Laws 2008 (D/M)

See *Civil*, Page 8.

COURT FUNDING & FEES

TREATMENT PROGRAMS

SSB 6791

Chapter 157, Laws 2008 (S, D/M)

Clarifies that monies currently collected under the sales and use tax authorized by RCW 82.14.260 may be used for the operation or delivery of chemical dependency programs or mental health treatment programs and services or therapeutic courts.

SALARIES & BENEFITS

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

HB 2887

Chapter 300, Laws 2008 (ALL)

Judges and justices in the Public Employees' Retirement System (PERS) may purchase an enhanced judicial benefit multiplier for periods of past judicial service, at the time of retirement. A member purchasing the upgraded service multiplier must pay five percent of the salary earned during the period for which the multiplier is being purchased, plus interest. Members of PERS with prior judicial service who are not currently working as judges may purchase the judicial benefit multiplier for prior periods of judicial service during a one-time window from January 1, 2009, to June 30, 2009.

OTHER

CAMPAIGN FINANCE REPORT

HB 2448

Chapter 73, Laws 2008 (ALL)

The report filed twenty-one days prior to an election must report all contributions received and expenditures made as of one business day before the date of the report.

CREATING THE UNIFORM REAL PROPERTY ELECTRONIC REPORTING ACT

EHB 2459

Chapter 57, Laws 2008 (S, D/M, J)

This bill adopts the Uniform Real Property Electronic Recording Act. The new chapter creates definitions, standards, procedures, and authority necessary for the official recording and transmission of documents existing in electronic form. County auditors are provided the authority necessary for the official recording and transmission of an electronic document and the acceptance of a legally required signature, notarization, verification, or acknowledgment

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when received electronically in accordance with specified requirements. The Secretary of State is required to create an E-Recording Standards Commission to review electronic recording standards and to make recommendations regarding the implementation of standardized rules for such recording. Existing information may be converted into electronic form.

Court action: Parties will want to be able to file judgments electronically with the county recorders, so electronic judgments should be compatible with any standards adopted by the E-Recording Standards Commission.

INCREASING THE NUMBER OF DISTRICT COURT JUDGES IN COWLITZ COUNTY HB 2762

Chapter 63, Laws 2008 (D/M)

The addition of a third judge in the Cowlitz County District Court is authorized.

LEVEL I OFFENDERS

HB 2786

CHAPTER 98, LAWS 2008 (S)

Requires the Washington Association of Sheriffs and Police Chiefs to include on the statewide sex offender website level I sex offenders during the time they are out of compliance with the registration statute.

AOC action: Refer to Pattern Forms Committee.

CREATING AN ACCESS COORDINATOR FOR THE ADMINISTRATIVE OFFICE OF THE COURTS

2SHB 2903

Chapter 148, Laws 2008 (ALL)

The Administrative Office of the Courts is directed to create the position of Court Access and Accommodations Coordinator (Coordinator). The Coordinator's duties include reviewing the needs of courts for training and other assistance necessary to accommodate persons with disabilities, and providing guidance and assistance upon request.

AOC action: AOC must create the position of, and hire for, Court Access and Accommodations

Coordinator and create an access device sharing plan.

CRIMINAL JUSTICE INFORMATION ACCESS

HB 2955

Chapter 74, Laws 2008 (AOC)

Several state agencies are authorized to receive criminal history record information that includes non-conviction data for purposes associated with the investigation of abuse or fraud in programs administered by the agencies.

USE OF PUBLIC FUNDS TO FINANCE CAMPAIGNS FOR LOCAL OFFICE

E2SSB 5278

Chapter 29, Laws 2008 (S, D/M)

The prohibition against the use of public funds to finance political campaigns for local offices is removed. Before a local government may adopt public funding, the proposal must be submitted to the voters for approval or rejection. Only funds derived from local sources may be used.

ADDRESS CONFIDENTIALITY OF VICTIMS OF TRAFFICKING

SSB 6339

Chapter 312, Laws 2008 (AOC)

Victims of trafficking are added to the list of victims eligible for the address confidentiality program with the Secretary of State, which allows a person to designate an alternate address when dealing with state and local agencies.

OFFICE OF PUBLIC DEFENSE

ESSB 6442

Chapter 313, Laws 2008 (ALL)

The sunset and termination clauses for the Office of Public Defense (OPD) are repealed. Membership of the 11-member advisory committee is expanded to include one person appointed by the Washington State Association of Counties and one person appointed by the Association of Washington Cities. Programs and services currently administered by the OPD and the duties of the advisory committee are explicitly listed in statute.

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JUDICIAL DISTRICT POPULATION

SB 6464

Chapter 13, Laws 2008 (D/M)

District court population estimates were previously used to determine the number of judges per district court, and to determine the salaries of part-time judges. Currently, the Supreme Court determines the number of district court judges. The Washington Citizens' Commission of Salaries sets part-time judges' salaries.

Currently, the Office of Financial Management is required to estimate and certify to the county legislative authority the population of each judicial district of each county.

The requirement that the Office of Financial Management estimate and certify to the county legislative authority the population of each judicial district is removed.

MODIFYING STATE WHISTLEBLOWER PROTECTIONS

ESSB 6776

Chapter 266, Laws 2008 (A, AOC)

The bill makes many changes to the state whistleblower act. For purposes of the courts, the most significant changes include:

The definition of whistleblower is expanded to include an individual who in good faith reports or is perceived by the employer as reporting alleged improper governmental action to the state auditor or public official, initiating an investigation.

Agencies must designate one or more people (including the agency's director) for receiving whistleblower complaints from within the agency. These people are then required to submit a whistleblower complaint to the Auditor's Office, which has the sole authority to investigate these complaints.

The grounds for a meritorious complaint are expanded to include "gross mismanagement."

The definition of "reprisal" or "retaliatory action" is expanded.

The sanctions that may be imposed on an agency for retaliatory action are expanded and strengthened.

AOC action: Together with the Supreme Court, will evaluate the changes made by this bill to see if they affect the judicial branch's development of its own whistleblower policies for state level judicial entities.

EXPANDING THE LIST OF PERSONS AND ENTITIES THAT MAY ACQUIRE DRIVING RECORD ABSTRACTS FOR CERTAIN PURPOSES

SB 6885

Chapter 253, Laws 2008 (ALL)

Access to driver's abstracts is expanded to include state colleges, universities, or agencies for purposes of employment and risk management, and to local governments who are authorized to self-insure.

The above entities are exempt from the requirement to obtain a release from the driver and an attestation of the employer or organization related to the nature of the inquiry.

Effective date: August 1, 2008.

PROVIDING A LIMITED WAIVER OR SUSPENSION OF STATUTORY OBLIGATIONS DURING OFFICIALLY DECLARED EMERGENCIES

SB 6950

Chapter 181, Laws 2008 (AOC)

During a declared state of emergency, the Governor may waive or suspend statutory obligations or limitations for certain executive functions and areas of liability: specific interlocal agreements, inspection fees, family emergency assistance applications, UTC regulatory requirements, tax dates and categories, and specific uses of alcohol.

AOC action: Consider needs for waivers of statutes and court rules in conjunction with business continuity planning.

Effective date: Section 601 of this act expires July 1, 2008. Section 602 of this act takes effect July 1, 2008.

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