

# SUMMARY

## of Selected

# 2013 LEGISLATION

of Interest to the Courts

***REVISED July 19, 2013***

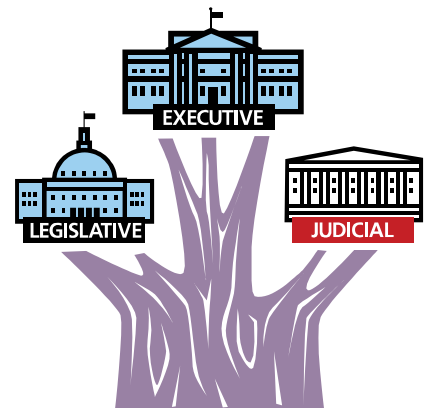
***Four bills added from 2nd Special Session:***


***ESHB 1632, pg. 20 (Off-road Vehicles)***

***SHB 1961, pg. 16 (JSTA)***

***2ESSB 5892, pg. 13 (Correction Costs)***

***E2SSB 5912, pg. 14 (DUI)***





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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.

## 2013 Legislative Summary

We are pleased to present a **Summary of Selected 2013 Legislation of Interest to the Courts** and hope it will be useful to implement bills that impact your court. During the 2013 legislative session, the Legislature and Governor enacted **74** bills that affect the courts and are of general interest to the legal community. Between updating/creating pattern forms, law table work and making JIS additions/changes, AOC expects to spend **more than 1200 hours** implementing the 2013 legislation on the following pages.

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), district/municipal courts (D/M), or applies to all (ALL).

Unless otherwise noted at the end of the bill summary, the **effective date of bills is July 28, 2013**. Partial vetoes by the Governor are also indicated at the end of the summary. For details on vetoes and other bill information, please click on the bill number to go directly to the bill. If the link does not work, go to the Washington State Legislature’s website at <http://apps.leg.wa.gov/billinfo/> and enter the bill number in the box provided.

A list of AOC Bill Trackers is 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.

### BILL TRACKERS

- MELLANI MCALEENAN:** BJA/multi-court legislation  
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- DIRK MARLER:** Fiscal notes; BJA/multi-court legislation  
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- ANNE WATSON:** Appellate court legislation; superior court criminal and civil legislation  
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- REGINA MCDUGALL:** Superior court/juvenile offender legislation  
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- JANET SKREEN:** Juvenile and family court legislation; therapeutic courts  
*janet.skreen@courts.wa.gov* ..... 360-705-5252
- SHANNON HINCHCLIFFE:** District and municipal court legislation  
*shannon.hinchcliffe@courts.wa.gov* ..... 360-705-5226
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- CHARLEY BATES:** Administrative public records  
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- COLLEEN CLARK:** Fiscal note coordinator/bill summary  
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### CIVIL

#### CRIMINAL INCOMPETENCY/COMMITMENT

**E2SHB 1114**

**Chapter 289 Laws 2013 S**

The bill requires that criminal defendants who have had felony charges dismissed due to incompetency be evaluated for filing a civil commitment petition under the Involuntary Treatment Act at a state hospital. Court discretion is eliminated as to release of a defendant who has had felony charges dismissed. On an initial petition for commitment, the court must find whether the acts committed constitute a violent offense. On a subsequent petition for continued commitment, a person may be committed for up to an additional 180 days upon prima facie evidence that he or she continues to suffer from a mental disorder or developmental disability that results in a substantial likelihood that he or she will commit acts similar to the criminal behavior. Committed persons may challenge the renewed commitment with admissible expert opinion that their condition has changed. Commitment may include transfer to a specialized intensive support and treatment program. The prosecuting attorney of the county in which criminal charges against a committed person were dismissed is to be notified of impending release, change in commitment status, or escape, when sex, violent, or felony harassment offenses were dismissed.

#### UNIFORM COLLABORATIVE LAW ACT

**SHB 1116**

**Chapter 119 Laws 2013 S, D/M**

The Uniform Collaborative Law Act (UCLA) is adopted and applies prospectively to collaborative law participation agreements. The use of collaborative law applies only to matters that would be resolved in civil court and may not be used to resolve criminal matters. Parties in a pending proceeding may enter an agreement to attempt to resolve the matter related to the proceeding. Notice to the tribunal of the agreement acts as an application for a stay of the proceeding. The stay is lifted when the parties file notice that the collaborative law process has concluded. During the collaborative process, the tribunal may require status reports and may enter emergency orders.

#### SEXUAL ASSAULT PROTECTION ORDERS

**SHB 1307**

**Chapter 74 Laws 2013 S, D/M**

The bill concerns sexual assault protection orders. When the court appoints a guardian ad litem for a petitioner or respondent, the appointment is to be at no cost to either party. After two unsuccessful attempts at personal service of an initial petition, service by publication or mail is permitted. When service is by publication or mail, the hearing date is to be set for no more than 24 days from the date of the temporary order. If a motion for renewal is contested, the court is to order a hearing for no more than 14 days from receipt of the motion, or 24 days if the court has allowed service by publication or mail. The court may schedule a hearing by telephone under local court rule to reasonably accommodate a disability or, in exceptional circumstances, to protect a petitioner from further assault.

#### WRONGFUL IMPRISONMENT

**ESHB 1341**

**Chapter 175 Laws 2013 S**

The bill creates a cause of action and process allowing a person who is actually innocent, wrongly convicted of one or more felonies in superior court, and imprisoned as a result, to bring a civil suit against the state for compensation. A claim survives to the personal representative of a deceased claimant. Under the governor's partial veto, compensation awards are to be paid from the general fund rather than from the state's liability account. Whenever judicial relief has been granted on grounds consistent with innocence, the court must provide the innocent person with a copy of the legislation.

*Partial veto: sections 10 and 13.*

#### STALKING PROTECTION ORDERS

**ESHB 1383**

**Chapter 84 Laws 2013 S, D**

Creates a civil protection order available to victims of stalking conduct who do not qualify for a domestic violence protection order. Creates procedures for entry of a stalking no-contact order during the pendency of criminal prosecutions for stalking and related offenses. Requests that the

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Administrative Office of the Courts develop a master pattern form for all antiharassment and stalking protection order petitions. Expands the categories of behavior that qualify as felony stalking, and increases the penalties for felony stalking. Authorizes the creation of protection order commissioners.

### **BIRTH CERTIFICATES AND INFORMATION** **SHB 1525**

**Chapter 321 Laws 2013 ALL**

The bill concerns access to original birth certificates after adoption. It allows an adult adoptee to obtain a noncertified copy of the original birth certificate unless the birth parent has filed an affidavit of nondisclosure before the effective date of the act or a contact preference form indicating the birth parent does not want the original birth certificate released. The bill also requires the contact preference form to include options for the birth parent to indicate his or her wishes as to contact with the adoptee and release of the original birth certificate. A birth parent who files a contact preference form is required to file an updated medical history form, which is to be provided to an adult adoptee upon request. An affidavit of nondisclosure or contact preference form expires upon the death of the birth parent. At the request of an adoptee, the Department of Health is required to conduct a search to determine if a birth parent who filed an affidavit of nondisclosure or contact preference form is deceased.

### **HEALTH CARE ACTIONS AND CLAIMS** **HB 1533**

**Chapter 82 Laws 2013 ALL**

The bill eliminates the requirement that a claimant provide 90-day prior notice of intent to file an action based on a health care provider's professional negligence.

### **HEALTH CARE INFORMATION DISCLOSURE** **ESHB 1679**

**Chapter 200 Laws 2013 ALL**

Effects of the bill may be briefly summarized as follows:

1. maintains heightened standards of privacy for patient information and records related to mental health services and information related to sexually transmitted diseases;
2. changes and adds situations in which the disclosure of mental health information is permitted without authorization, such as to provide health care to the patient;
3. changes and adds situations in which the disclosure of mental health services and sexually transmitted disease information is permitted without authorization, such as to coroners and medical examiners and for research; and
4. prohibits health care providers and their employees and contractors from using or disclosing health care information for marketing or fundraising purposes or selling health care information to a third party, unless the information is in a de-identified and aggregated form or for a specified purpose.

*Effective date: July 1, 2014, except section 5 which is effective May 10, 2013.*

### **DEBT COLLECTION PRACTICES** **SHB 1822**

**Chapter 148 Laws 2013 S, D/M**

This bill makes persons or entities engaged in the business of purchasing delinquent or charged-off debt for collection agencies "debt buyers" for the purpose of the Collection Agency Act (CAA), even if the collection of those claims is performed by a third party or an attorney through litigation. Debt buyers must be licensed as collection agencies and comply with other requirements of the CAA. The list of prohibited practices in the CAA is amended to prohibit the "unauthorized practice of law," rather than the practice of law in general.

*Sections 1 and 3 effective October 1, 2013.*

### **EXCHANGE FACILITATORS** **ESSB 5082**

**Chapter 228 Laws 2013 S**

The bill provides that a person engaged in the facilitator business must provide the client with a disclosure document prior to any contractual agreement between the parties and must post on

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the facilitator's website a disclosure notice that explicitly states, among other things, that exchange facilitation services are not regulated by any government agency. The facilitator must deposit client funds into a separately identifiable account, and the client must receive independent access to the current account statement from the financial institution in order to verify the exchange funds have been deposited. The facilitator must return to the client all earnings credited to the account. A definition of "covered dishonest act" as a crime involving fraud, embezzlement, misappropriation of funds, robbery, or other theft of property is added to the statute. Exchange facilitators must maintain a fidelity bond for the benefit of the client who suffers a direct financial loss as a result of the facilitator's covered dishonest act.

### JUDICIAL PROCEEDINGS AND FORMS

**SSB [5135](#)**

**Chapter 246 Laws 2013 S**

- The bill strikes the requirement for the county clerk to notify the county auditor of each summons for jury duty that is returned as undeliverable.
- It provides that judicial proceedings in trust and estate matters must be commenced as new actions.
- Records entered prior to a final order determining parentage are to be accessible only to the parties or on order of the court for good cause.
- Final orders in parentage proceedings are to be available for public inspection.
- Except as provided by court rules, records entered after entry of a final order determining parentage are also to be publicly accessible.

### SUPERIOR COURT COMMISSIONERS

**SSB [5165](#)**

**Chapter 27 Laws 2013 S**

This bill relates to the authority of supplemental court commissioners, as authorized by the Legislature, to assist superior court case processing in specific areas of law including mental health and family law. Their duties are limited by statute, and this bill grants additional authority, defined as follows.

1. It increases the authority for superior court commissioners to hear applications and petitions filed in superior court for the purposes of administering antipsychotic medication without consent to a person who has been committed pursuant to the Involuntary Treatment Act (RCW 10.77).

2. This bill also authorizes criminal court commissioners who may authorize and issue search warrants and order to intercept, monitor, or record wired or wireless telecommunications, or for the installation of electronic taps or other devices to include, but not limited to, vehicle global positioning system of other mobile tracking devices, with all the powers conferred upon the judge of the superior court in such matters.

### SOCIAL NETWORKING ACCOUNTS

**SSB [5211](#)**

**Chapter 330 Laws 2013 S**

The bill prohibits employers from requiring employees or applicants to allow access to their personal social networking accounts and from taking adverse action for failing to allow access. But an employer may require an employee to share content from a personal social networking account if necessary to make a factual determination in the course of an investigation to ensure compliance with laws, regulatory requirements, or prohibitions against work-related employee misconduct or to investigate allegations of unauthorized transfer of proprietary information, confidential information, or financial data. An employee or applicant may bring a civil action alleging a violation of the legislation, and the court may award equitable relief, actual damages, a penalty of \$500, and reasonable attorney fees and costs. The court may also award reasonable expenses and attorney fees for frivolous actions.

### INCOMPETENT TO STAND TRIAL

**ESB [5221](#)**

**Chapter 214 Laws 2013 ALL**

The bill requires notification of release of a person following a dismissal of charges based on incompetence to stand trial. A facility conducting a civil commitment evaluation that makes a determination to release a person instead of filing

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a civil commitment petition must provide written notice to the prosecutor and defense attorney at least 24 hours before the release. Notice may be given by e-mail, facsimile, or other means reasonably likely to communicate the information immediately.

### **DEFAMATION**

**ESB [5236](#)**

**Chapter 294 Laws 2013 ALL**

The bill creates the Uniform Correction or Clarification of Defamation Act, expressly intended to provide incentives to promptly correct or clarify alleged false statements as an alternative to costly litigation. The term "person" under the act is to include individuals, corporations, business trusts, estates, trusts, partnerships, associations, joint ventures, or other legal or commercial entities, but does not include governments or their subdivisions, agencies, or instrumentalities. The act applies to claims for relief for damages arising out of harm caused by the false content of a publication, including writings, broadcasts, oral communications, electronic transmissions, or other forms of transmitting information. In order to maintain an action for defamation, a person must make a timely and adequate written request for correction or clarification from the defendant. If a timely and sufficient correction or clarification is made, a person may not recover damages for injury to reputation or presumed damages.

### **MENTAL HEALTH COMMITMENT**

**SSB [5282](#)**

**Chapter 216 Laws 2013 S**

The bill requires the Department of Licensing, Washington State Patrol, Department of Social and Health Services, Administrative Office of the Courts, and representatives of regional support networks and superior courts to participate in a workgroup convened by the DOL for the purpose of making a proposal for consolidation of statewide involuntary commitment information for the purpose of accurate and efficient verification of eligibility to possess a firearm. The workgroup must make recommendations as to privacy protections and whether access may legally be provided to designated mental health professionals (DMHPs) and law enforcement

officials for use in the official course of their duties. The workgroup must report its recommendations to the governor and the legislature by December 1, 2013.

The bill also requires regional support networks to forward historical mental health involuntary commitment information retained by the organization including identifying information and dates of commitment to DSHS.

*AOC action: appoint a representative to this workgroup.*

*Court action: appoint a representative to this workgroup.*

### **TRUSTS**

**SB [5344](#)**

**Chapter 272 Laws 2012 ALL**

The bill makes numerous changes to provisions governing trust and estate law.

A nonprofit corporation is authorized to serve as a personal representative if the articles of incorporation or bylaws permit. Limited liability partnerships and professional limited liability companies whose partners or members are exclusively attorneys may act as personal representatives or trustees. State or regional colleges or universities and community or technical colleges may serve as trustees. A person with a substantially identical interest with respect to a particular trust issue may represent and bind an unrepresented minor, incapacitated or unborn individual, or person whose location is unknown.

A notice to the representative has the same effect as if given directly to the beneficiary. The Attorney General may represent remote charitable beneficiaries for trust administration purposes.

A trustee has a duty to keep all qualified beneficiaries of a trust reasonably informed about its administration. A beneficiary of a trust may not commence a breach of trust proceeding against a trustee more than three years after the date a report concerning the potential breach has been delivered. The terms of a will or trust may be

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reformed by judicial proceeding to conform to the trustor's original intent.

The bill addresses applicability of its amendments, adds definitions, and makes several technical changes to the Washington Trust Act.

### STATE AUDITOR'S OFFICE APPLYING FOR SUBPOENAS

**SB 5446**

**Chapter 50 Laws 2013 S**

The bill provides a process for the state auditor or authorized assistants to apply for and obtain a superior court order authorizing an investigative subpoena. The application may be made in the county where the subpoenaed person resides or is found, or the county where the subpoenaed records or documents are located, or in Thurston County. The application must adequately specify the records, documents, or testimony sought and must declare under oath (a) that an investigation is being conducted for a lawfully authorized purpose, and (b) that the subpoenaed documents or testimony are reasonably related to an investigation within the state auditor's authority. Approval may be sought and a court may issue an order without prior notice to any person, including the person to whom the subpoena is directed and the person who is the subject of an investigation.

### DETENTIONS UNDER INVOLUNTARY TREATMENT ACT

**SSB 5456**

**Chapter 334 Laws 2013 S**

A designated mental health professional must consult an examining emergency room physician when making a detention decision under the Involuntary Treatment Act and must document the consultation, including the physician's observations and opinion as to whether detention is appropriate. A designated mental health professional who conducts an evaluation for imminent likelihood of serious harm or imminent danger due to grave disability must also evaluate the person for likelihood of serious harm or grave disability that does not meet the imminent standard for emergency detention.

### ASBESTOS / BUILDING MATERIALS

**ESSB 5458**

**Chapter 51 Laws 2013 —**

Creates a labeling requirement for building materials that contain asbestos; sections 3 and 4 add new sections to Title 70 RCW to make certain conduct "unlawful," it appears to be restricted to administrative penalties under amended RCW 70.94.431.

### INVOLUNTARY COMMITMENT

**ESSB 5480**

**Chapter 335 Laws 2013 ALL**

In 2010, the Legislature passed 2SHB 3076, which expanded the criteria for involuntary civil commitment. The bill accelerates the effective date of sections of 2SHB 3076 yet to be enacted from July 1, 2015 to July 1, 2014.

### ABUSE OF VULNERABLE ADULTS

**SB 5510**

**Chapter 263 Laws 2013 A, S, D/M**

Revises the definition of "neglect" by including an act or omission by a person or entity with a duty of care that demonstrates a serious disregard of consequences of such a magnitude as to constitute a clear and present danger to a vulnerable adult's health, welfare, or safety.

Requires the Department of Social and Health Services or law enforcement, in conducting an investigation of abandonment, abuse, financial exploitation, self-neglect, or neglect, to, upon request, have access to all relevant records related to a vulnerable adult that are in the possession of mandated reporters and their employees.

Authorizes DSHS, the Certified Professional Guardian Board, and the Office of Public Guardianship to share information contained in reports and investigations of the abuse, abandonment, neglect, self neglect, and financial exploitation of vulnerable adults.



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### CRIMINAL

#### RAPE IN THE THIRD DEGREE

**HB 1108**

**Chapter 94 Laws 2013** S, D/M

The bill eliminates the marital exemption from the crimes of rape in the third degree and indecent liberties. These crimes can now be prosecuted in cases where the perpetrator is married to the victim.

#### CRIMINAL INCOMPETENCY / COMMITMENT

**E2SHB 1114**

**Chapter 289 Laws 2013** S

*See Civil, page 4.*

#### SEAFOOD LABELING

**SHB 1200**

**Chapter 290 Laws 2013** S, D/M

Amends RCW 69.04.933 to clarify the offense of selling misbranded seafood; makes the violation a misdemeanor, gross misdemeanor or felony depending on the value of the seafood (section 4); section 5 amends RCW 69.04.934 to the same effect for salmon; section 7 adds a new section to chapter 69.04 RCW to clarify the offenses based on the value of the seafood (creates new misdemeanor, gross misdemeanor and class C felony).

#### SEX TRADE VICTIMS

**ESHB 1291**

**Chapter 121 Laws 2013** ALL

The bill establishes the statewide coordinating committee on sex trafficking to address the issues of sex trafficking, to examine the practices of local and regional entities involved in addressing sex trafficking, and to develop a statewide plan to address sex trafficking. The committee is to be administered by the Department of Commerce and to be funded from the prostitution prevention and intervention account (first priority). The section expires June 30, 2015. The bill requires that fees from vehicle impounds and prosecutions for prostitution-related offenses be remitted to the city or county where the offense occurred to be used for local efforts to reduce the commercial

sale of sex; two percent of the funds raised through the additional fees imposed are to be remitted to the state. The bill allows courts to create a payment plan for the additional fees imposed in connection with prosecution for sex trafficking and prostitution-related offenses.

#### SEXUAL ABUSE AGAINST A CHILD

**SHB 1352**

**Chapter 17 Laws 2013** S

The bill extends the statute of limitations for several criminal offenses related to sexual abuse against a minor. The following offenses may now be prosecuted up to the victim's 30th birthday if the victim was under 18 years old when the offense was committed: rape in the first or second degree; rape of a child in the first, second, or third degree; child molestation in the first, second, or third degree; indecent liberties; incest; or sexual exploitation of a minor.

If the victim was over 18 years old, rape in the first or second degree may be prosecuted up to 10 years after the act if the offense was reported within one year, or up to three years after the act if the offense was not reported within one year. All other sex offenses may be prosecuted up to three years from the date of the act. The period of limitations for a sex offense may run from the date of commission or one year from the date on which the identity of the suspect is established by DNA testing or by photograph, whichever is later.

#### SCRAP METAL THEFT REDUCTION

**ESHB 1552**

**Chapter 322 Laws 2013** S

The bill concerns the reduction of metal theft. In summary, it creates a licensing scheme for scrap metal businesses, expands criminal penalties for metal theft and malicious mischief, allows for civil forfeiture of property used in the commission of a crime involving the theft, trafficking, or unlawful possession of commercial metal property, creates a database by which businesses may determine if a potential client has a criminal conviction that makes him or her ineligible to sell property to the business, prohibits cash transactions unless certain documentation is captured, creates a grant program to support enforcement efforts targeting

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metal theft, preempts the field of scrap metal regulation, and amends provisions relating to law enforcement information and hold requests and recordkeeping of metal transactions. The governor vetoed the section that would void the act unless \$1.5 million was provided to fund it in the omnibus appropriations act.

*Partial veto: section 34.*

*Sections 12-23 effective January 1, 2014.*

### **FIREARM OFFENDERS**

**SHB 1612**

**Chapter 183 Laws 2013 S, D/M**

Adds new sections to chapter 9.41 RCW to create a “central registry of firearm offenders,” which would be exempt from public inspection and copying. The law also adds new definitions for firearm offender and firearm offense; section 3 adds a new chapter that requires judges to consider whether to require firearm offenders to comply with the new firearm registration requirements. Creates a new gross misdemeanor for failure to register as a firearm offender.

### **CONTRABAND IN A SECURE FACILITY**

**SHB 1836**

**Chapter 43 Laws 2013 S**

The bill expands the crimes of introducing contraband in the first, second, and third degrees to include secure facilities housing individuals committed as sexually violent predators. It requires the Department of Social and Health Services to adopt guidelines, which do not interfere with attorney-client privilege, for attorneys bringing legal materials into secure facilities. An attorney representing a client confined in a secure facility is to be allowed to bring discovery or other legal materials to assist the client in the civil commitment process, provided the attorney is present when the client reviews or handles the materials and the attorney removes the materials when leaving the facility.

### **VAPOR PRODUCTS**

**HB 1937**

**Chapter 47 Laws 2013 S, D/M**

This bill amends RCW 26.28.080 to include providing tobacco vapor products to a minor to the list of activities constituting a gross misdemeanor.

### **LICENSE PLATES / REGISTRATION FRAUD**

**ESHB 1944**

**Chapter 135 Laws 2013 S, D/M**

Makes it unlawful for a person to display a license plate on a vehicle that does not match the registration. Creates a gross misdemeanor for a person that switches or flips license plates on a vehicle or falsifies a vehicle registration. Authorizes a law enforcement officer to impound a vehicle that is found with an installed license plate-flipping device as evidence.

### **RIOT AND CRIMINAL MISCHIEF**

**SSB 5021**

**Chapter 20 Laws 2013 S, J, D/M**

Amends RCW 9A.84.010 to change offensive conduct description from “riot” to “criminal mischief”; amends Description & Offense Category set forth in RCW 13.40.0357 to reflect this change.

*Effective date: January 1, 2014.*



**SB 5022** (L to R) Mike McCliment, LA to Senator Padden; David Elliott, AOC; Governor Inslee; Mellani McAleenan, BJA; Mark Johnson, Retail Association

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### RETAIL THEFT

SSB [5022](#)

Chapter 153 Laws 2013 S

The bill changes the crime of retail theft with extenuating circumstances to retail theft with special circumstances. "Special circumstances" is defined to mean the particular aggravating circumstances described in the statutory definition of the offense.

*Effective date: January 1, 2014.*

### VEHICLE PROWLING

ESB [5053](#)

Chapter 267 Laws 2013 S, D/M

Amends RCW 9A.52.100 to provide that vehicle prowling in the second degree, currently a gross misdemeanor, is a Level IV Class C felony upon a third or subsequent conviction; amends felony table in RCW 9.94A.515 to reflect this change. Vehicle prowl incidents charged in one charging document will not count as multiple offenses for the purpose of charging felony vehicle prowl. Vehicle prowl incidents that occur on the same date will not count as multiple offenses for the purpose of charging felony vehicle prowl.

### EXCHANGE FACILITATORS

ESSB [5082](#)

Chapter 228 Laws 2013 S

*See Civil, page 5.*

### CRIMES AGAINST PHARMACIES

SB [5149](#)

Chapter 270 Laws 2013 S

The bill provides that a special allegation may be brought against a defendant charged with robbery in the first or second degree if the defendant robs a pharmacy. If the defendant is convicted and the allegation is proven beyond a reasonable doubt, an additional 12 months must be added to the standard sentence range.

### SUPERIOR COURT COMMISSIONERS

SSB [5165](#)

Chapter 27 Laws 2013 S

*See Civil, page 6.*

### INCOMPETENT TO STAND TRIAL

ESB [5221](#)

Chapter 214 Laws 2013 ALL

*See Civil, page 6.*

### BOATING SAFETY

SSB [5437](#)

Chapter 278 Laws 2013 S, D/M

Includes marijuana on the list of substances included within a boating DUI and amends provisions of RCW 79A.60.040 regarding blood and breath testing; requires officers to warn persons refusing testing that they will be issued a class 1 civil infraction under RCW 7.80.120. Clarifies that operating a vessel in a reckless manner is a misdemeanor and operating a vessel while intoxicated is a gross misdemeanor. Makes refusal of submission to a test of blood or breath a class 1 civil infraction. Increases the maximum penalty for the new civil infraction for refusal to a default amount of \$1,000. Adds a new section to chapter 79A.60 RCW regarding vessels for hire. Creates a new civil infraction for those vessels for hire that don't operate properly under this chapter and if a person receives a third violation within 365 days, it is a misdemeanor.

### ASSAULT IN THE THIRD DEGREE CONNECTED TO COURT PROCEEDINGS

ESB [5484](#)

Chapter 256 Laws 2013 ALL

The bill provides that a person commits assault in the third degree if he or she assaults a person located in a courtroom, jury room, judge's chamber, or adjacent waiting area or corridor when the courtroom, jury room, or judge's chamber is being used for judicial purposes during court proceedings and when warning signage is posted. Such an assault may be used as an aggravating factor for an exceptional sentence. Standard signage notifying the public of the possible enhanced penalty is to be developed by

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AOC and prominently displayed at any public entrance to a courtroom.

### **SEX-TRAFFICKING / INTERNET**

**SB 5488**

**Chapter 9 Laws 2013 S**

The bill establishes that an additional fee of \$5,000 per offense is to be assessed when the court finds that an internet advertisement in which the victim was described or depicted was instrumental in facilitating the commission of the crimes of commercial sexual abuse of a minor, promoting commercial sexual abuse of a minor, or promoting travel for commercial sexual abuse of a minor. "Internet advertisement" is defined as "a statement in electronic media that would be understood by a reasonable person to be an implicit or explicit offer for sexual contact or sexual intercourse in exchange for something of value." Fees collected are to be deposited in the prostitution prevention and intervention account. The offense of advertising commercial sexual abuse of a minor is repealed.

### **ABUSE OF VULNERABLE ADULTS**

**SB 5510**

**Chapter 263 Laws 2013 A, S, D/M**

*See Civil, page 8.*

### **COMPETENCY TO STAND TRIAL**

**ESSB 5551**

**Chapter 284 Laws 2013 S**

The bill requires DSHS to reimburse a county for the cost of appointing an expert to complete a competency evaluation for a defendant in custody if the department has not met its performance target for the timeliness of competency evaluations for at least 50 percent of cases in the county during the most recent quarter. The expert must be appointed from a list of qualified persons compiled with the participation of prosecutors and the county's defense bar. The expert is to be compensated in an amount that will encourage in-depth evaluation reports. Reimbursement may not be less than the department's cost for state evaluations, with the county paying excess costs. The county is to provide a copy of the report to the affected state hospital if the defendant is referred

for admission, and the county must maintain data on the timeliness of competency evaluations completed under the legislation. Within current resources, the Office of the State Human Resources Director is to gather market salary data about psychologists and psychiatrists employed by DSHS and the Department of Corrections and report to the governor and legislative committees by June 30, 2013.

*Section 2 effective May 16, 2013.*

### **TRAFFICKING**

**ESSB 5669**

**Chapter 302 Laws 2013 S**

The bill provides that consent of a minor is not a defense for the crimes of commercial sexual abuse of a minor, promoting commercial sexual abuse of a minor, promoting travel for the commercial sexual abuse of a minor, or trafficking in the first and second degree. If the victim is a minor, the offenses of trafficking in the first or second degree do not require actions with knowledge, or in reckless disregard of the fact, that force, fraud, or coercion will be used to cause the person to engage in a sexually explicit act or a commercial sex act.

Evidence of a victim's past sexual behavior is not admissible if offered to attack the victim's credibility in trafficking and sexual exploitation of a minor cases. Trafficking with a finding of sexual motivation is defined as a sex offense for the purpose of requiring registration as a sex offender.

In a criminal proceeding, the court may now order that a child under the age of 14 may testify outside the presence of the defendant and jury via closed-circuit television. This testimony may be used in trafficking and sexual exploitation of a minor cases. Trafficking, promoting travel for the commercial sexual abuse of a minor, and permitting commercial sexual abuse of a minor are added as offenses that can lead to a criminal profiteering action.

In proceedings for the termination of a parent-child relationship when the court is determining whether reasonable efforts are required to unify the family, it is an aggravating circumstance that the parent

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has been convicted of trafficking or promoting commercial sexual abuse of a minor when the victim is the child, the child's other parent, the child's sibling, or another child.

*Effective date: August 1, 2013.*

### **TAX EVASION BY ELECTRONIC MEANS**

**SB 5715**

**Chapter 309 Laws 2013 S**

The bill provides it is a class C felony to commit electronic tax fraud using an automated sales suppression device or phantom-ware. A person who provides an automated sales suppression device or phantom-ware to another is to be subject to an additional mandatory fine that is the greater of \$10,000 or the amount lawfully due from the person who received and used the device. The Department of Revenue is given the authority to revoke the certificate of registration of a business found using an automated sales suppression device. The certificate is not to be reinstated unless the business agrees to have the Department of Revenue monitor sales transactions for five years through an electronic system paid for by the business. Automated sales suppression devices and phantom-ware are subject to seizure and forfeiture.

### **THERAPEUTIC COURTS**

**SB 5797**

**Chapter 257 Laws 2013 ALL**

Specialty and therapeutic courts are defined as specialized pretrial or sentencing dockets in select criminal cases where agencies coordinate work to provide treatment for a defendant who has particular needs. The legislature encourages the Supreme Court to adopt any court rules of practice and procedure it deems necessary to support the establishment of these types of courts. Existing law is clarified that jurisdictions, rather than counties, may establish and operate drug courts, DUI courts, and mental health courts.

Specialty and therapeutic courts must continue to obtain the consent of the prosecuting authority in order to remove a charged offender from the regular course of prosecution and punishment and comply with sentencing requirements as established in state law.

Municipalities may enter into cooperative agreements with counties or other municipalities that have DUI courts to provide DUI court services. Any jurisdiction establishing a specialty court must endeavor to incorporate the treatment court principles of best practices as recognized by state and national treatment court agencies and organizations, and may seek state or federal funding as it becomes available for the establishment, maintenance, and expansion of specialty and therapeutic courts and for the provision by participating agencies of treatment for participating defendants.

The SCJA and DMCJA are encouraged to convene a workgroup to examine the structure of all specialty and therapeutic courts in Washington and report to the legislature recommendations for the structure of these courts in the law and court rules prior to the beginning of the 2014 legislative session. The legislature respectfully requests the Supreme Court to consider any recommendations from the workgroup pertaining to necessary changes in court rules.

### **REDUCING CORRECTION COSTS**

**2ESSB 5892**

**Chapter 14 Laws 2013 S**  
**2nd Special Session**

The bill changes the Drug Offense Sentencing Grid in RCW 9.94A.517, requires the Department of Corrections to recalculate early release credits for inmates, and adds provisions relating to earned release certified by a county jail as lost or not earned. The standard sentence range for a level one drug offense, with 3 – 5 priors, changed from "6+ to 18 months" to "6+ to 12 months" for sentences imposed on or after July 1, 2013, regardless of the offense date.

*Effective date: July 1, 2013*

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### DRIVING UNDER THE INFLUENCE

E2SSB [5912](#)

Chapter 35 Laws 2013 S, D/M  
2ND SPECIAL SESSION

#### **Mandatory Arrest and Additional Provisions to Warrantless Arrest**

Requires mandatory arrest without a warrant of a person who has violated RCW 46.61.502 (DUI) or 46.61.504 (Physical Control) or an equivalent local ordinance and the police officer has knowledge that the person has a prior offense as defined within RCW 46.61.5055 within ten years. Allows police officers having probable cause to believe a person is committing a violation of RCW 46.61.503 (Minor Driving After Consuming Alcohol or Marijuana) or 46.25.110 (Driving/Physical Control of a Commercial Motor Vehicle With Alcohol/Marijuana In System), relating to persons having alcohol or THC in their system to arrest the person without a warrant.

#### **Mandatory Condition of Release for Repeat Offenders**

Enacts a new release requirement of those who are charged with DUI or Physical Control, where the current offense involves alcohol and the defendant has a prior offense as defined in RCW 46.61.5055. The court shall require the defendant, as a condition of release on bail or personal recognizance, to have a functioning ignition interlock device installed on all motor vehicles operated by him/her, with proof of installation filed with the court within five business days of the date of release from custody or as soon thereafter as determined by the court; or to comply with a 24/7 sobriety program monitoring or both. The court shall lift the requirement upon acquittal or dismissal.

#### **Creation of 24/7 Sobriety Program**

Creates a 24/7 sobriety program which is defined as a 24-hour seven-day-a-week sobriety program in which a participant submits to the testing of the participant's blood, breath, urine or other bodily substances. Allows the court to condition any bond or pretrial release upon participation in the 24/7 sobriety program and payment of associated costs and expenses if the program is available. Courts shall not waive or reduce fees charged for participation in the 24/7 program. Requires

WASPC to establish pilot project sites, develop the program and report findings and results of the program to the legislature by 2017. Includes a violation schema for participants who violate terms of participation or do not pay the required fees or associated costs: Makes the government immune from civil liability for damages from incidents involving offenders participating in the 24/7 sobriety program.

Amends RCW 46.61.5055 to include compliance of the 24/7 program in lieu of electronic home monitoring or in addition to electronic home monitoring depending on the number of prior offenses and BAC level. Clarifies that the mandatory imprisonment provision for offenders who are convicted of DUI or PC while a passenger under the age of sixteen was in the vehicle is in addition to other penalties.

#### **Mandatory Sentencing Related Conditions**

- Not driving a motor vehicle in this state without a valid license to drive and proof of liability insurance or other financial responsibility for the future pursuant to RCW 46.30.020.
- Not driving or being in physical control of a motor vehicle within this state while having an alcohol concentration of 0.08 or more or a THC concentration of 5.00 nanograms per milliliter of whole blood or higher, within two hours after driving.
- Not refusing to submit to a test of his or her breath or blood to determine alcohol or drug concentration upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drug.
- When waiving EHM requirements under section (12) *allows the court to determine whether there is an alcohol monitoring device utilizing wireless technology which is reasonably available and require the person to obtain such a device to use during the period of required EHM.*

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- When the court does waive the EHM requirement under section (12), the court can order the *use of an ignition interlock device and the 24/7 sobriety program monitoring* in addition to other sentencing alternatives.
- “Prior offense” includes deferred sentences imposed in a prosecution for violation of RCW 46.61.5249, 46.61.500, or 9A.36.050 or an equivalent local ordinance when the original charge imposed was originally filed as a violation of RCW 46.61.502 or 46.61.504, an equivalent local ordinance or a violation of RCW 46.61.520 or 46.61.522.
- In determining sentence, considerations must be made to (1) whether a child passenger under the age of 16 was in the driver’s vehicle; and/or (2) whether the driver was driving the wrong way, on a multiple lane highway, with a posted speed of 45 mph or greater.

### Implied Consent

Removes implied consent for blood tests of drivers who operate motor vehicles within the state subject to RCW 46.61.506. Requires a search warrant, valid waiver of the warrant requirement or exigent circumstances to perform a breath or blood test when a person is unconscious, or is under arrest for felony DUI or Physical Control, Vehicular Homicide, Vehicular Assault; or DUI resulting from an accident in which there has been serious bodily injury to another person. After giving the implied consent warnings in situations other than those noted above, no test other than a breath test can be given unless authorized by a search warrant.

### Felony DUI and Physical Control Sentencing and Supervision

Makes crimes within 46.61.5055(14) included in the offender score and prior convictions for felony DUI or Physical Control shall always be included in the offenders score. Requires DOC to supervise offenders convicted and sentenced under RCW 46.61.520 (vehicular homicide), RCW 46.61.522 (vehicular assault), RCW 46.61.502(6) (felony DUI), or RCW 46.61.504(6) (felony physical control) – regardless of DOC’s risk classification of the offender. Makes driving in the opposite direction of the normal flow of traffic on a

multiple lane highway with a speed limit of 45 MPH or greater an aggravating factor.

### Other

Prohibits deferred sentences for any offense sentenced under RCW 46.61.5055 or any local equivalents. Allows municipalities to set up and operate their own DUI court or contract with a county or other municipality that have such a court. Requires the court at sentencing to consider whether the vehicle shall be seized and forfeited pursuant to RCW 46.61.5058 if a seizure or forfeiture has not yet occurred.

Removes the requirement of “punching” a driver’s license upon conviction. Requires officers who conduct field inspections of IID’s to report violations by program participants to the court.

Adds provisions related to THC to CMV and CDL driver disqualifications. Creates an impaired driving workgroup which is required to provide a report to the legislature by December 1, 2013. Establishes additional restrictions on the Employer Exemption. Clarifies violations for IID breath test failures. Amends Negligent Driving in the First Degree to include exhibiting the effects of marijuana or any drug, in addition to consuming liquor as a basis for the crime.

Allocates additional monies to DSHS to provide court ordered chemical dependency assessment and treatment services for low-income or Medicaid eligible repeat DUI offenders. Allocates monies to counties to offset increased incarceration costs due to mandatory arrest of repeat offenders.

*Effective date: September 28, 2013. Sections 27, 28 and 30 through 32 of this act take effect January 2, 2014.*

## COURT FUNDING & FEES

### SEX TRADE VICTIMS

ESHB [1291](#)

Chapter 121 Laws 2013

ALL

*See Criminal, page 9.*

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### JUDICIAL STABILIZATION TRUST ACCOUNT SHB [1961](#) Chapter 7 Laws 2013            ALL Second Special Session

Legislation originally enacted in 2009 authorized temporary surcharges on filing fees in an amount that varied based on court level. The revenue is split between the state and the county collecting the fee, with 75 percent going to the state and 25 percent going to the county to be used to support local trial courts and court-related costs. The surcharges on filing fees are extended in their current amount and split until July 1, 2017.

*Effective date: July 1, 2013*

### SEX-TRAFFICKING/INTERNET SB [5488](#) Chapter 9 Laws 2013            S

*See Criminal, page 12.*

### COMPETENCY TO STAND TRIAL ESSB [5551](#) Chapter 284 Laws 2013        S

*See Criminal, page 12.*

## FAMILY & JUVENILE

### PARENTAL ABDUCTION SHB [1021](#) Chapter 91 Laws 2013        S

Provides that information regarding the harmful effects of parental abduction must be provided in any packet of information or parenting classes provided to parties in dissolution or legal separation cases involving the custody or care of minor children.

*Court action: Distribute pamphlet with any packet of information provided to family law litigants.*

*AOC action: Develop pamphlet for distribution to courts, clerks, and interested entities.*

### PUBLIC RECORDS EXEMPTIONS— CHILDREN'S INFORMATION HB [1203](#) Chapter 220 Laws 2013        S

Amends RCW 52.56.230 (Public Records Act) to exempt from public inspection and copying personal information for a child enrolled in licensed child care in any files maintained by the Department of Early Learning. This exemption of confidential information for licensed child care is added to the existing confidential information exemption regarding children enrolled in child care services, parks and recreation programs, youth development programs, and after-school programs. Personal information includes, but is not limited to, contact information (telephone numbers, home addresses, e-mail addresses) of the parents/guardians and social security numbers and birthdates of the parents/guardians/children.

### INCARCERATED PARENTS AND DEPENDENCY CASES SHB [1284](#) Chapter 173 Laws 2013        S

A parent who is unable to participate in a case conference in person because he or she is incarcerated must be afforded the option to participate by a telephone conference or a videoconference. The requirements in a permanency plan that a parent must meet in order to resume custody of a child must address the special circumstances of a parent who is incarcerated. This includes addressing how the parent will participate in the case conference and permanency planning meetings. Where possible, treatment must reflect the resources available at the facility where the parent is confined. Visitation must be provided for unless it is not in the best interest of the child.

In determining whether a parent has failed to complete court-ordered treatment, the court must consider constraints that a parent has experienced by a current or prior incarceration. The constraints considered may include delays or barriers experienced by the parent. The court may also consider whether the parent has maintained a meaningful role in the child's life and whether DSHS has made reasonable efforts to assist the



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parent. Where there has been a claim of aggravated circumstances, the court may consider rebuttal evidence of whether barriers existed for the parent. When a parent who is sentenced to long-term incarceration has maintained a meaningful role in his or her child's life, DSHS should, but is not required to, seek a permanent placement that allows the parent to maintain a relationship with his or her child, such as a guardianship.

Good cause exceptions to filing a mandatory petition for termination of parental rights include circumstances where a current or prior incarceration is a significant factor in why a child has been in foster care for 15 of the last 22 months, as long as the parent has maintained a meaningful role in the child's life. In determining whether the parent has maintained a meaningful role in a child's life, the court may consider the parent's lack of access to programs, services, treatment, legal counsel, or court proceedings. The court may also consider as a good cause exception any delays or barriers to completion of court-mandated treatment caused by incarceration.

### JUVENILE MENTAL HEALTH

**ESHB [1524](#)**

**Chapter 179 Laws 2013 S**

When a police officer has reasonable cause to believe that a juvenile has committed acts that are considered non-serious offenses, and the officer has reason to believe that the juvenile suffers from a mental disorder, the officer may take the individual to an evaluation and treatment facility or an alternative location that the prosecutor, law enforcement, and the mental health provider have agreed to in advance. Law enforcement may continue any existing practice of taking a juvenile to an alternative location without agreement with local prosecutors.

A juvenile may have up to three diversions before the prosecutor must file an information alleging a criminal offense. If an assessment identifies that a juvenile has mental health needs and he or she has been granted a diversion, the juvenile may receive up to 30 hours of counseling, and a term of the diversion agreement may include services

that have been demonstrated to improve behavioral health and to reduce recidivism. The definition of "community agency" is expanded to include a physician, counselor, school, or treatment provider.

If the court grants a deferred disposition to a juvenile, the court may require the juvenile to undergo a mental health or substance abuse evaluation, or both. If the assessment identifies a need for treatment, the conditions of supervision may include treatment that has been demonstrated to improve behavioral health and reduce recidivism.

### EDUCATION PROVISIONS FOR DEPENDENT CHILDREN

**ESHB [1566](#)**

**Chapter 182 Laws 2013 S**

DSHS is required to identify an educational liaison at shelter care hearings and all subsequent review hearings for youth in grades six to 12 and who meet certain eligibility requirements. It is presumed that the educational liaison is the child's parent. If the youth's parent is not able to serve as the educational liaison, it is preferred that the educational liaison be known to the child and be a relative, other suitable person, or the youth's foster parent.

The expectations of the education liaison are outlined and an example of expectations include, but are not limited to, attend school meetings, provide educational advocacy for the youth, seek to understand the youth's academic strengths and future goals, and explore barriers and opportunities for the youth to participate in extracurricular activities.

It is the responsibility of DSHS to discuss and document any school transfers at Family Team Decision-Making Meetings, to enroll the youth in school, to obtain missing academic or medical records required for school enrollment, to pay any unpaid fines due by the youth to the school district, and to document factors contributing to any school disruptions.

Additionally, eligibility requirements for the Passport to College Promise Program expand to

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include youth participating in the extended foster care program or a youth achieving a permanent plan after 17-1/2 years of age, or a youth emancipating from foster care on or after January 1, 2007. A school district representative or school employee is required to review and determine the cause of unexpected absences and proactively support the youth so the youth does not fall behind academically. A school district cannot prevent a youth from enrolling in school if there is incomplete information needed for enrollment. Beginning January 2015 a university-based research group must submit an annual report to the Legislature examining education outcomes for youth in foster care.

*Court action: appoint education liaison for all children grades six – 12.*

### **CHILD WELFARE SYSTEM**

**ESHB [1774](#)**

**Chapter 205 Laws 2013 S**

A university-based child welfare research entity (research entity) and DSHS, in collaboration with other stakeholders, must develop measurements for the indicators of safety, permanency, and well-being in the child welfare system. The measurements must be developed by December 1, 2013. The research entity must make the nonidentifiable data publicly available, and it must report to the Legislature and the Governor annually, starting December 31, 2014.

Under this act, specific measures, baselines, or comparisons of measures to a baseline used by the research entity are not admissible as evidence of negligence by DSHS in civil action. The time by which DSHS must enter into performance-based contracts for family support and related services is extended until July 1, 2014. The time by which DSHS must issue the RFPs is extended until December 31, 2013. DSHS must begin implementation of performance-based contracting by July 1, 2014, and must fully implement performance-based contracting by July 1, 2015. The date by which the child welfare demonstration sites must be implemented is extended until December 30, 2016.

### **GOOD CAUSE EXCEPTIONS**

**SHB [1821](#)**

**Chapter 206 Laws 2013 S**

The circumstances for which a court may enter a “good cause exception” to prevent the filing of a termination petition are expanded to include the following:

- a parent has been accepted into a dependency treatment court program or long-term substance abuse or dual diagnoses treatment program and is demonstrating compliance with treatment goals; or
- a parent who has been court ordered to complete services necessary for the child’s safe return home files a declaration under penalty of perjury stating the parent’s financial inability to pay for the same court-ordered services, and also declares the DSHS was unwilling or unable to pay for the same services necessary for the child’s safe return home.

Both of the aforementioned good cause exceptions are only valid until June 30, 2015.

### **JUDICIAL PROCEEDINGS AND FORMS**

**SSB [5135](#)**

**Chapter 246 Laws 2013 S**

*See Civil, page 6.*

### **SEXUALLY EXPLOITED CHILDREN**

**SSB [5308](#)**

**Chapter 253 Laws 2013 ALL**

The bill provides for establishment of the commercially sexually exploited children statewide coordinating committee, which is to be convened by the Attorney General. The committee is to address the issue of children who are commercially sexually exploited, to examine the practices of local and regional entities involved in addressing sexually exploited children, and to make recommendations on statewide laws and practices. The committee is to meet at least annually and to report its findings to the appropriate legislative committees and to other known statewide committees addressing trafficking or the commercial sex trade. The section expires June 30, 2015.

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### **POWELL FATALITY REVIEW RECOMMENDATIONS**

**SSB [5315](#)**

**Chapter 255 Laws 2013      S**

In a dependency hearing and upon determining that the child should be removed from the home, if a court orders the child to be placed with a caregiver over the objections of the parent or DSHS, the court must articulate on the record the court's reasons for ordering the placement. When a parent or sibling who desires visitation with a child is an identified suspect in an active criminal investigation for a violent crime that, if the allegations are true, would impact the safety of the child, DSHS must make a concerted effort to consult with the assigned law enforcement officer in the criminal case before recommending any changes in parent/child or child/sibling contact.

Law enforcement must provide any available information pertaining to the criminal case that may have serious implications for child safety or wellbeing to DSHS. Information provided to DSHS by law enforcement may only be used to inform family visitation plans, may not be shared or distributed, and is exempt from public inspection. The results of the consultation must be communicated to the court. In the event a judge orders a parent to undergo a psychosexual evaluation, and pending the outcome of the evaluation, DSHS may, subject to the approval of the court, reassess visitation duration, supervision, and location. If the assessment indicates the current visitation plan might compromise the safety of the child, DSHS, subject to approval by the court, may alter the plan, pending the outcome of the evaluation.

Caseworkers employed in child services must receive ongoing domestic violence training and consultation, including how to use the Children's Administration's practice guide to domestic violence.

### **SIBLING VISITATION IN DEPENDENCY CASES**

**E2SSB [5389](#)**

**Chapter 316 Laws 2013      S**

DSHS or another supervising agency must attempt the maximum child and sibling interaction

possible. DSHS, the court, or the caregiver in the out-of-home placement may not limit contact or visitation as a sanction for a child's behavior or as an incentive to the child to change the child's behavior. Any exceptions, limitations, or denial of contacts or visitation must be approved by the supervisor of the caseworker and documented. The child, parent, DSHS, guardian ad litem, or court-appointed special advocate may challenge the denial of visits in court.

### **EXTENDED FOSTER CARE**

**ESSB [5405](#)**

**Chapter 332 Laws 2013      S**

Youth who have an open dependency proceeding upon turning age 18 are eligible for extended foster care services if they are participating in a program or activity designed to promote or remove barriers to employment. This category is in addition to existing eligibility categories that allow youth to receive services when participating in a secondary or postsecondary academic or vocational program. Extended foster care services may include the following: (1) placement in licensed, relative, or otherwise approved care; (2) supervised independent living settings; (3) assistance in meeting basic needs; (4) independent living services; (5) medical assistance; and (6) counseling or treatment.

DSHS must approve a youth's supervised independent living setting. Liability is limited by stating that providing extended foster care services does not create a legal responsibility for the actions of youth receiving extended foster care services. When the youth is at least 17 years of age but not older than 17 years and six months, DSHS must provide the youth with written documentation explaining the availability of extended foster care services and detailing instructions about how to access those services after they reach age 18. The court must dismiss dependency cases of foster care youth who turn 18 years old if they are not participating in a secondary or postsecondary program, or are not in a program that promotes or removes barriers to employment.

Youth whose dependency cases were dismissed at age 18 or after may request extended foster

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care services through a Voluntary Placement Agreement (VPA) if they request services before turning 19 years old. A youth may enter into a VPA only once, but may transition among eligibility categories as long as the youth remains eligible during the transition. If DSHS denies the youth's request to enter into a VPA, the youth may petition the court for an order of dependency and must be provided the assistance of counsel at no cost to the youth. The Caseload Forecast Council must count youth receiving extended foster care services separately from other children under age 18 who are in foster care. No later than September 1, 2013, DSHS must develop recommendations regarding the needs of dependent youth in JRA institutions and report those recommendations to the Governor and appropriate legislative committees.

*Sections 8 and 10 effective December 1, 2013.*

### BACKGROUND CHECKS IN DEPENDENCY CASES

**SSB [5565](#)**

**Chapter 162 Laws 2013 S**

Amends RCW 13.34.165. When placing a child before a shelter care hearing with a relative or other suitable person, the fingerprint-based background check need not be completed before placement, but as soon as possible after placement, if the person appears otherwise suitable and competent to provide care and treatment. The bill also creates a workgroup, including court representatives, to address the impact of founded CPS complaints on the ability of a rehabilitated individual to gain employment or care for children.

*Court action: SCJA will select a court representative to participate in workgroup.*

*Section 5 effective December 1, 2013.*

### TRAFFICKING

**ESSB [5669](#)**

**Chapter 302 Laws 2013 S**

*See Criminal, page 12.*

### THERAPEUTIC COURTS

**SB [5797](#)**

**Chapter 257 Laws 2013 ALL**

*See Criminal, page 13.*

## INFRACTIONS

### DERELICT AND ABANDONED VESSELS

**ESHB [1245](#)**

**Chapter 291 Laws 2013 D/M**

Amends RCW 88.02.380 to decriminalize approximately 13 misdemeanors that are currently found in chapter 88.02 RCW, and makes them class 2 civil infractions, processed under chapter 7.80 RCW. The remaining provisions amend sections of chapter 88.02 RCW to remove language regarding class 2 civil infractions. Modifies RCW 88.02.380(3) to restrict funds collected under this enforcement section to be used only for "the support of the enforcement agency, department, division or program that issued the violation."

*Section 34 effective June 30, 2019; Section 38 effective July 1, 2014.*

### TRAFFIC INFRACTION NOTICES

**SHB [1265](#)**

**Chapter 170 Laws 2013 D/M**

Amends RCW 46.63.060 regarding forms for traffic infraction notices – requires form change that license "may" rather than "shall" be suspended by DOL for unpaid fines or failure to appear, which must be included on any newly-purchased traffic infraction notice forms. Changes must be included on every traffic infraction notice form that is to be used after July 1, 2015.

### OFF-ROAD VEHICLES

**ESHB [1632](#)**

**Chapter 23 Laws 2013 D/M**

**2nd Special Session**

Establishes statewide operation standards and equipment requirements for wheeled all-terrain vehicles. Increases the age of a person who may operate an off-road vehicle (ORV) across a

## 2013 Legislative Summary

highway or non-highway road from 13 to 16 years of age. Establishes the requirement of certain registrations and creates traffic infractions for operating an ORV without a valid license. Adds a new section to Chap. 46.09 that states: "A person who operates a wheeled all-terrain vehicle consistent with RCW 46.09.470(1)(g), (h), or (i) or inconsistent with the emergency exemption under RCW 46.09.420 is a traffic infraction" and allows for an officer to ticket for an infraction even if it is committed outside of the officer's presence.

*Effective date: Section 3 is effective July 1, 2015 and Section 25 is contingent.*

### **MOTOR VEHICLE OPERATION** **ESSB [5095](#)** **Chapter 157 Laws 2013**     **D/M**

Amends RCW 46.30.020 to allow drivers to provide proof of vehicle liability insurance and/or vehicle registration either by card, paper or a portable electronic device to a law enforcement officer. Law enforcement is only allowed limited viewing of the device and is restricted from viewing or browsing for other content.

### **BOATING SAFETY** **SSB [5437](#)** **Chapter 278 Laws 2013**     **S, D/M**

*See Criminal, page 11.*

### **AQUATIC INVASIVE SPECIES** **SSB [5702](#)** **Chapter 307 Laws 2013**     **D/M**

Amends RCW 77.15.160 related to aquatic invasive species to create a new natural resources infraction for transporting watercraft into Washington by road without meeting the Aquatic Invasive Species documentation requirement, punishable under chapter 7.84 RCW.

### **ELECTRIC VEHICLE CHARGING** **ESSB [5849](#)** **Chapter 60 Laws 2013**     **D/M**

Adds a new section to chapter 46.08 RCW creating a parking infraction with a penalty of \$124 for improperly parking in an electric vehicle charging station.

## JUDICIAL ELECTIONS

### **PRIMARY ELECTIONS** **S2HB [1195](#)** **Chapter 195 Laws 2013**     **ALL**

Establishes that there be no primary election if there are only one or two candidates in the race, making judicial elections consistent with election procedures for other nonpartisan offices.

*Effective date: May 10, 2013.*

### **TOP TWO NONPARTISAN CANDIDATES** **HB [1474](#)** **Chapter 143 Laws 2013**     **ALL**

Repeals the law that allowed a candidate who received a majority of votes in a contested primary to be the only candidate listed on the ballot in the general election.

### **ELECTION LAW CHANGES** **SSB [5518](#)** **Chapter 11 Laws 2013**     **S**

Codifies the decision in *Parker v. Wyman* that a candidate for superior court is not required to be a registered voter of the county.

*Partial veto: Section 5.*

## NEW & AMENDED CRIMES

### **RAPE IN THE THIRD DEGREE** **HB [1108](#)** **Chapter 94 Laws 2013**     **S, D/M**

*See Criminal, page 9.*

### **SEAFOOD LABELING** **SHB [1200](#)** **Chapter 290 Laws 2013**     **S, D/M**

*See Criminal, page 9.*

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### DERELICT AND ABANDONED VESSELS

ESHB [1245](#)

Chapter 291 Laws 2013 D/M

*See Infractions, page 18.*

### SEXUAL ABUSE AGAINST A CHILD

SHB [1352](#)

Chapter 17 Laws 2013 S

*See Criminal, page 9.*

### SCRAP METAL THEFT REDUCTION

ESHB [1552](#)

Chapter 322 Laws 2013 S

*See Criminal, page 9.*

### FIREARM OFFENDERS

SHB [1612](#)

Chapter 183 Laws 2013 S, D/M

*See Criminal, page 10.*

### CONTRABAND IN A SECURE FACILITY

SHB [1836](#)

Chapter 43 Laws 2013 S

*See Criminal, page 10.*

### VAPOR PRODUCTS

HB [1937](#)

Chapter 47 Laws 2013 S, D/M

*See Criminal, page 10.*

### LICENSE PLATES / REGISTRATION FRAUD

ESHB [1944](#)

Chapter 135 Laws 2013 S, D/M

*See Criminal, page 10.*

### RIOT AND CRIMINAL MISCHIEF

SSB [5021](#)

Chapter 20 Laws 2013 S, J, D/M

*See Criminal, page 10.*

### RETAIL THEFT

SSB [5022](#)

Chapter 153 Laws 2013 S

*See Criminal, page 11.*

### VEHICLE PROWLING

ESB [5053](#)

Chapter 267 Laws 2013 S, D/M

*See Criminal, page 11.*

### CRIMES AGAINST PHARMACIES

SB [5149](#)

Chapter 270 Laws 2013 S

*See Criminal, page 11.*

### BOATING SAFETY

SSB [5437](#)

Chapter 278 Laws 2013 S, D/M

*See Criminal, page 11.*

### ASSAULT IN THE THIRD DEGREE CONNECTED TO COURT PROCEEDINGS

ESB [5484](#)

Chapter 256 Laws 2013 ALL

*See Criminal, page 11.*

### SEX-TRAFFICKING / INTERNET

SB [5488](#)

Chapter 9 Laws 2013 S

*See Criminal, page 12.*

### TAX EVASION BY ELECTRONIC MEANS

SB [5715](#)

Chapter 309 Laws 2013 S

*See Criminal, page 13.*

### DRIVING UNDER THE INFLUENCE

E2SSB [5912](#)

Chapter 35 Laws 2013 S, D/M

### 2ND SPECIAL SESSION

*See Criminal, page 14.*

## PROBATE / GUARDIANSHIP

### ABUSE OF VULNERABLE ADULTS

SB [5510](#)

Chapter 263 Laws 2013 A, S, D/M

See *Civil*, page 8.

### STANDBY AND LIMITED GUARDIANS

SB [5692](#)

Chapter 304 Laws 2013 S

Authorizes the appointment of a standby guardian to serve as the guardian during the planned absence of the court-appointed guardian, and affords the standby guardian all the powers, duties, and obligations of the court-appointed guardian when the appointed guardian dies or becomes incapacitated.

Gives the standby guardian the authority to assume some or all of the duties, responsibilities, and powers of the court-appointed guardian during the guardian's planned absence. Prior to the guardian's planned absence and to the standby guardian assuming the duties, responsibilities, and powers, the guardian must file a petition in the superior court where the guardianship is being administered stating the dates of the planned absence and the duties, responsibilities, and powers the standby guardian should assume. The guardian must give notice of the planned absence petition to the standby guardian, the incapacitated person and that person's spouse or registered domestic partner and adult children, any facility in which the incapacitated person resides, and any person who requested special notice.

Upon the conclusion of a hearing on the planned absence petition, and a determination by the court that the standby guardian meets the qualification requirements to act as a guardian, the court must issue an order specifying the following: (1) the amount of bond to be filed by the standby guardian; (2) the duties, responsibilities, and powers the standby guardian will assume during the planned absence; (3) the duration that the standby guardian will be acting; and (4) the expiration date of the letters of guardianship to be issued to the standby guardian.

Upon the court's approval of the standby guardian, letters of guardianship must be issued to the standby guardian upon filing an oath and posting a bond. The standby guardian must give notice of their appointment to the incapacitated person and that person's spouse or domestic partner and adult children, any facility in which the incapacitated person resides, and any person who requested special notice. The provisions governing bonds posted by if regularly appointed guardians apply to standby guardians.

## OTHER

### IMPOUNDED VEHICLE REDEMPTION

SHB [1130](#)

Chapter 150 Laws 2013 D/M

Allows an impounded vehicle to be redeemed by a vendor working on behalf of the insurer of the vehicle, a third-party insurer if that insurer has received a claim in connection with the vehicle or a vendor working on behalf of a third-party insurer if that third-party insurer has received a claim in connection with the insured vehicle. Expands the group of people who may consent to the redemption by a third-party insurer or a vendor working on behalf of the third-party insurer.

### ADDITIONAL SUPERIOR COURT JUDGE IN BENTON/FRANKLIN COUNTIES

SHB [1175](#)

Chapter 142 Laws 2013 S

The number of statutorily authorized superior court judges in Benton and Franklin Counties, jointly, is increased from six to seven.

### FIREARM OFFENDERS (judicial discretion)

SHB [1612](#)

Chapter 183 Laws 2013 S, D/M

See *Criminal*, page 10.

### DISTRICT COURT JUDGES' RETIREMENT

SB [5046](#)

Chapter 22 Laws 2013 D/M

Modifying the mandatory retirement provision for district judges and allowing judges to finish their

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judicial term once they turn 75 instead of requiring them to retire at the end of the year they turn 75.

### GENDER-BASED TERMS

**SSB 5077**

**Chapter 23 Laws 2013**      **ALL**

The Code Reviser must make annual legislative recommendations to make the RCW completely gender-neutral by June 30, 2015. Gender-specific terms and references are made gender-neutral in several Titles. For example, references to “him” are changed to “him or her,” and references to “ombudsman” are changed to “ombuds.”

*Action: AOC and courts should check documents and replace gender-specific terms with gender-neutral terms.*



**SB 5052** (L to R) Tom McBride, represents Bellingham/Whatcom County (also WAJCA); Mellani McAleenan, BJA; Governor Inslee; Judge Charles Snyder; Rep. Zack Hudgins, chair of the House Appropriations Committee on General Government

### ADDITIONAL SUPERIOR COURT JUDGE IN WHATCOM COUNTY

**SB 5052**

**Chapter 210 Laws 2013**      **S**

The number of statutorily authorized superior court judges in Whatcom County is increased from three to four.

### MOTOR VEHICLE OPERATION

**ESSB 5095**

**Chapter 157 Laws 2013**      **D/M**

*See Infractions, page 18.*

### ASBESTOS / BUILDING MATERIALS

**ESSB 5458**

**Chapter 51 Laws 2013**      **—**

*See Civil, page 8.*

### CRIMINAL HISTORY RECORD INFORMATION

**SB 5466**

**Chapter 62 Laws 2013**      **D/M**

Amends the provisions of RCW 10.98.100 regarding compliance audits. The Washington State Patrol (WSP) is required to identify dispositions which have been outstanding for a year or longer since arrest. Outstanding dispositions must be researched by WSP staff or the original criminal justice agency. Upon receipt of a list of outstanding dispositions from WSP, the criminal justice agency must respond within 60 days.

### PUBLIC EMPLOYEE ETHICS

**ESSB 5577**

**Chapter 190 Laws 2013**      **A**

A state employee who files an ethics complaint after making a reasonable attempt to ascertain the correctness of the information furnished must be afforded protection from retaliation similar to protection provided to whistleblowers, even if the complaint is subsequently denied. A retaliator may be subject to a civil penalty of up to \$5,000.

### ELECTRIC VEHICLE CHARGING (local law tables)

**ESSB 5849**

**Chapter 60 Laws 2013**      **D/M**

*See Infractions, page 19.*



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Health care actions and claims	1533	5	ALL
Health care information disclosure	1679	5	ALL
Debt collection practices	1822	5	S, D/M
Exchange facilitators	5082	5	S
Judicial proceedings and forms	5135	6	S
Superior court commissioners	5165	6	S
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Incompetent to stand trial	5221	6	ALL
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Vapor products	1937	10	S, D/M
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