

CERTIFICATION OF ENROLLMENT

SECOND SUBSTITUTE HOUSE BILL 3104

Chapter 6, Laws of 2008

60th Legislature
2008 Regular Session

DOMESTIC PARTNERSHIPS--RIGHTS

EFFECTIVE DATE: 06/12/08 - Except section 1044, which becomes effective 01/01/09; and section 1047, which becomes effective 07/01/09.

Passed by the House February 15, 2008
Yeas 62 Nays 32

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 4, 2008
Yeas 29 Nays 20

BRAD OWEN

President of the Senate

Approved March 12, 2008, 2:16 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 3104** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

March 13, 2008

**Secretary of State
State of Washington**

SECOND SUBSTITUTE HOUSE BILL 3104

Passed Legislature - 2008 Regular Session

State of Washington 60th Legislature 2008 Regular Session

By House Finance (originally sponsored by Representatives Pedersen, Hankins, Moeller, Walsh, Linville, Takko, Upthegrove, Kessler, Jarrett, Ericks, Wallace, Grant, Eickmeyer, Quall, Clibborn, Dunshee, Lantz, Sullivan, Simpson, Blake, Hunter, Roberts, Rolfes, Williams, Sells, Schual-Berke, Springer, Eddy, Hunt, Hudgins, Santos, Cody, Seaquist, Fromhold, Nelson, McIntire, Chase, Hasegawa, Appleton, Darneille, Haigh, Sommers, Dickerson, Kirby, Wood, Flannigan, Conway, Goodman, Kenney, Kagi, Ormsby, Loomis, McCoy, Barlow, O'Brien, Pettigrew, Morris, Lias, and VanDeWege)

READ FIRST TIME 02/08/08.

1 AN ACT Relating to expanding rights and responsibilities of all
2 couples recognized as domestic partners under chapter 26.60 RCW;
3 amending RCW 42.17.241, 42.52.040, 43.03.305, 43.185A.010, 43.20B.080,
4 70.123.020, 70.129.140, 74.42.070, 4.22.020, 5.60.060, 5.66.010,
5 7.69.020, 7.69B.010, 26.50.010, 4.08.030, 4.08.040, 4.20.046,
6 28B.15.621, 73.08.005, 72.36.030, 72.36.040, 72.36.050, 72.36.070,
7 72.36.110, 73.04.120, 73.36.140, 73.04.010, 73.04.115, 26.16.010,
8 26.16.020, 26.16.030, 26.16.050, 26.16.060, 26.16.070, 26.16.080,
9 26.16.090, 26.16.095, 26.16.100, 26.16.120, 26.16.140, 26.16.150,
10 26.16.180, 26.16.190, 26.16.200, 26.16.205, 26.16.210, 26.16.220,
11 26.16.230, 26.16.240, 26.16.250, 11.84.030, 64.28.010, 64.28.020,
12 64.28.030, 64.28.040, 9.46.231, 9A.83.030, 69.50.505, 64.06.010,
13 6.13.020, 6.13.060, 6.13.080, 6.13.180, 6.13.210, 6.13.220, 6.13.230,
14 26.16.125, 60.04.211, 82.45.010, 84.38.030, 84.38.070, 84.38.130,
15 84.38.150, 84.36.381, 84.36.041, 84.36.120, 84.36.383, 84.37.080,
16 7.36.020, 11.88.010, 11.88.040, 11.88.090, 11.88.125, 11.76.080,
17 11.92.140, 11.94.090, 11.94.100, 11.94.140, 11.02.005, 11.02.070,
18 11.02.100, 11.02.120, 11.04.095, 11.08.300, 11.10.010, 11.11.010,
19 11.12.051, 11.12.095, 11.12.180, 11.28.030, 11.28.131, 11.28.185,
20 11.54.010, 11.54.020, 11.54.030, 11.54.040, 11.54.050, 11.54.070,
21 11.62.005, 11.62.010, 11.62.030, 11.68.011, 11.80.130, 11.96A.030,

1 11.96A.120, 11.100.025, 11.04.290, 11.10.030, 11.80.010, 11.80.050,
2 11.114.010, 26.60.050, 26.09.004, 26.09.010, 26.09.020, 26.09.030,
3 26.09.040, 26.09.050, 26.09.060, 26.09.070, 26.09.080, 26.09.090,
4 26.09.100, 26.09.110, 26.09.120, 26.09.170, 26.09.210, 26.09.255,
5 26.09.280, 26.09.290, 26.09.310, 26.10.050, 26.10.180, 26.12.190,
6 26.18.010, 26.18.020, 26.18.030, 26.18.040, 26.18.050, 26.18.070,
7 26.18.090, 26.18.100, 26.18.110, 26.18.120, 26.18.140, 26.18.150,
8 26.19.071, 26.19.075, 26.20.035, 26.20.071, 26.20.080, 26.09.015,
9 26.09.194, 26.12.172, and 26.12.260; reenacting and amending RCW
10 42.17.020, 11.07.010, 26.09.150, and 26.09.015; adding new sections to
11 chapter 26.60 RCW; adding a new section to chapter 26.18 RCW; creating
12 new sections; providing effective dates; and providing an expiration
13 date.

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

15 **PART I - NOTICE**

16 NEW SECTION. **Sec. 101.** (1) Sixty days before the effective date
17 of this act, and again thirty days before the effective date of this
18 act, the secretary of state shall send a letter to the mailing address
19 on file of each domestic partner registered under chapter 26.60 RCW
20 notifying the person that Washington's law on the rights and
21 responsibilities of state registered domestic partners will change.

22 (2) The notice shall provide a brief summary of new laws, including
23 changes to the laws governing community property, transfer of property,
24 taxes, mutual responsibilities for certain debts to third parties, and
25 other provisions. The notice shall also explain that the way domestic
26 partnerships are terminated has changed and that, unless there are
27 certain limited circumstances, it will be necessary to participate in
28 a dissolution proceeding in court to end a domestic partnership.

29 (3) The notice shall inform the person that those domestic partners
30 who do not wish to be subject to the new rights and responsibilities
31 must terminate their domestic partnership before the effective date of
32 the act.

33 **PART II - PUBLIC OFFICIALS**

1 **Sec. 201.** RCW 42.17.020 and 2007 c 358 s 1 and 2007 C 180 S 1 are
2 each reenacted and amended to read as follows:

3 The definitions in this section apply throughout this chapter
4 unless the context clearly requires otherwise.

5 (1) "Actual malice" means to act with knowledge of falsity or with
6 reckless disregard as to truth or falsity.

7 (2) "Agency" includes all state agencies and all local agencies.
8 "State agency" includes every state office, department, division,
9 bureau, board, commission, or other state agency. "Local agency"
10 includes every county, city, town, municipal corporation, quasi-
11 municipal corporation, or special purpose district, or any office,
12 department, division, bureau, board, commission, or agency thereof, or
13 other local public agency.

14 (3) "Authorized committee" means the political committee authorized
15 by a candidate, or by the public official against whom recall charges
16 have been filed, to accept contributions or make expenditures on behalf
17 of the candidate or public official.

18 (4) "Ballot proposition" means any "measure" as defined by RCW
19 29A.04.091, or any initiative, recall, or referendum proposition
20 proposed to be submitted to the voters of the state or any municipal
21 corporation, political subdivision, or other voting constituency from
22 and after the time when the proposition has been initially filed with
23 the appropriate election officer of that constituency prior to its
24 circulation for signatures.

25 (5) "Benefit" means a commercial, proprietary, financial, economic,
26 or monetary advantage, or the avoidance of a commercial, proprietary,
27 financial, economic, or monetary disadvantage.

28 (6) "Bona fide political party" means:

29 (a) An organization that has filed a valid certificate of
30 nomination with the secretary of state under chapter 29A.20 RCW;

31 (b) The governing body of the state organization of a major
32 political party, as defined in RCW 29A.04.086, that is the body
33 authorized by the charter or bylaws of the party to exercise authority
34 on behalf of the state party; or

35 (c) The county central committee or legislative district committee
36 of a major political party. There may be only one legislative district
37 committee for each party in each legislative district.

1 (7) "Depository" means a bank designated by a candidate or
2 political committee pursuant to RCW 42.17.050.

3 (8) "Treasurer" and "deputy treasurer" mean the individuals
4 appointed by a candidate or political committee, pursuant to RCW
5 42.17.050, to perform the duties specified in that section.

6 (9) "Candidate" means any individual who seeks nomination for
7 election or election to public office. An individual seeks nomination
8 or election when he or she first:

9 (a) Receives contributions or makes expenditures or reserves space
10 or facilities with intent to promote his or her candidacy for office;

11 (b) Announces publicly or files for office;

12 (c) Purchases commercial advertising space or broadcast time to
13 promote his or her candidacy; or

14 (d) Gives his or her consent to another person to take on behalf of
15 the individual any of the actions in (a) or (c) of this subsection.

16 (10) "Caucus political committee" means a political committee
17 organized and maintained by the members of a major political party in
18 the state senate or state house of representatives.

19 (11) "Commercial advertiser" means any person who sells the service
20 of communicating messages or producing printed material for broadcast
21 or distribution to the general public or segments of the general public
22 whether through the use of newspapers, magazines, television and radio
23 stations, billboard companies, direct mail advertising companies,
24 printing companies, or otherwise.

25 (12) "Commission" means the agency established under RCW 42.17.350.

26 (13) "Compensation" unless the context requires a narrower meaning,
27 includes payment in any form for real or personal property or services
28 of any kind: PROVIDED, That for the purpose of compliance with RCW
29 42.17.241, the term "compensation" shall not include per diem
30 allowances or other payments made by a governmental entity to reimburse
31 a public official for expenses incurred while the official is engaged
32 in the official business of the governmental entity.

33 (14) "Continuing political committee" means a political committee
34 that is an organization of continuing existence not established in
35 anticipation of any particular election campaign.

36 (15)(a) "Contribution" includes:

37 (i) A loan, gift, deposit, subscription, forgiveness of

1 indebtedness, donation, advance, pledge, payment, transfer of funds
2 between political committees, or anything of value, including personal
3 and professional services for less than full consideration;

4 (ii) An expenditure made by a person in cooperation, consultation,
5 or concert with, or at the request or suggestion of, a candidate, a
6 political committee, the person or persons named on the candidate's or
7 committee's registration form who direct expenditures on behalf of the
8 candidate or committee, or their agents;

9 (iii) The financing by a person of the dissemination, distribution,
10 or republication, in whole or in part, of broadcast, written, graphic,
11 or other form of political advertising or electioneering communication
12 prepared by a candidate, a political committee, or its authorized
13 agent;

14 (iv) Sums paid for tickets to fund-raising events such as dinners
15 and parties, except for the actual cost of the consumables furnished at
16 the event.

17 (b) "Contribution" does not include:

18 (i) Standard interest on money deposited in a political committee's
19 account;

20 (ii) Ordinary home hospitality;

21 (iii) A contribution received by a candidate or political committee
22 that is returned to the contributor within five business days of the
23 date on which it is received by the candidate or political committee;

24 (iv) A news item, feature, commentary, or editorial in a regularly
25 scheduled news medium that is of primary interest to the general
26 public, that is in a news medium controlled by a person whose business
27 is that news medium, and that is not controlled by a candidate or a
28 political committee;

29 (v) An internal political communication primarily limited to the
30 members of or contributors to a political party organization or
31 political committee, or to the officers, management staff, or
32 stockholders of a corporation or similar enterprise, or to the members
33 of a labor organization or other membership organization;

34 (vi) The rendering of personal services of the sort commonly
35 performed by volunteer campaign workers, or incidental expenses
36 personally incurred by volunteer campaign workers not in excess of
37 fifty dollars personally paid for by the worker. "Volunteer services,"

1 for the purposes of this section, means services or labor for which the
2 individual is not compensated by any person;

3 (vii) Messages in the form of reader boards, banners, or yard or
4 window signs displayed on a person's own property or property occupied
5 by a person. However, a facility used for such political advertising
6 for which a rental charge is normally made must be reported as an in-
7 kind contribution and counts towards any applicable contribution limit
8 of the person providing the facility;

9 (viii) Legal or accounting services rendered to or on behalf of:

10 (A) A political party or caucus political committee if the person
11 paying for the services is the regular employer of the person rendering
12 such services; or

13 (B) A candidate or an authorized committee if the person paying for
14 the services is the regular employer of the individual rendering the
15 services and if the services are solely for the purpose of ensuring
16 compliance with state election or public disclosure laws; or

17 (ix) The performance of ministerial functions by a person on behalf
18 of two or more candidates or political committees either as volunteer
19 services defined in (b)(vi) of this subsection or for payment by the
20 candidate or political committee for whom the services are performed as
21 long as:

22 (A) The person performs solely ministerial functions;

23 (B) A person who is paid by two or more candidates or political
24 committees is identified by the candidates and political committees on
25 whose behalf services are performed as part of their respective
26 statements of organization under RCW 42.17.040; and

27 (C) The person does not disclose, except as required by law, any
28 information regarding a candidate's or committee's plans, projects,
29 activities, or needs, or regarding a candidate's or committee's
30 contributions or expenditures that is not already publicly available
31 from campaign reports filed with the commission, or otherwise engage in
32 activity that constitutes a contribution under (a)(ii) of this
33 subsection.

34 A person who performs ministerial functions under this subsection
35 (15)(b)(ix) is not considered an agent of the candidate or committee as
36 long as he or she has no authority to authorize expenditures or make
37 decisions on behalf of the candidate or committee.

1 (c) Contributions other than money or its equivalent are deemed to
2 have a monetary value equivalent to the fair market value of the
3 contribution. Services or property or rights furnished at less than
4 their fair market value for the purpose of assisting any candidate or
5 political committee are deemed a contribution. Such a contribution
6 must be reported as an in-kind contribution at its fair market value
7 and counts towards any applicable contribution limit of the provider.

8 (16) "Elected official" means any person elected at a general or
9 special election to any public office, and any person appointed to fill
10 a vacancy in any such office.

11 (17) "Election" includes any primary, general, or special election
12 for public office and any election in which a ballot proposition is
13 submitted to the voters: PROVIDED, That an election in which the
14 qualifications for voting include other than those requirements set
15 forth in Article VI, section 1 (Amendment 63) of the Constitution of
16 the state of Washington shall not be considered an election for
17 purposes of this chapter.

18 (18) "Election campaign" means any campaign in support of or in
19 opposition to a candidate for election to public office and any
20 campaign in support of, or in opposition to, a ballot proposition.

21 (19) "Election cycle" means the period beginning on the first day
22 of January after the date of the last previous general election for the
23 office that the candidate seeks and ending on December 31st after the
24 next election for the office. In the case of a special election to
25 fill a vacancy in an office, "election cycle" means the period
26 beginning on the day the vacancy occurs and ending on December 31st
27 after the special election.

28 (20) "Electioneering communication" means any broadcast, cable, or
29 satellite television or radio transmission, United States postal
30 service mailing, billboard, newspaper, or periodical that:

31 (a) Clearly identifies a candidate for a state, local, or judicial
32 office either by specifically naming the candidate, or identifying the
33 candidate without using the candidate's name;

34 (b) Is broadcast, transmitted, mailed, erected, distributed, or
35 otherwise published within sixty days before any election for that
36 office in the jurisdiction in which the candidate is seeking election;
37 and

1 (c) Either alone, or in combination with one or more communications
2 identifying the candidate by the same sponsor during the sixty days
3 before an election, has a fair market value of five thousand dollars or
4 more.

5 (21) "Electioneering communication" does not include:

6 (a) Usual and customary advertising of a business owned by a
7 candidate, even if the candidate is mentioned in the advertising when
8 the candidate has been regularly mentioned in that advertising
9 appearing at least twelve months preceding his or her becoming a
10 candidate;

11 (b) Advertising for candidate debates or forums when the
12 advertising is paid for by or on behalf of the debate or forum sponsor,
13 so long as two or more candidates for the same position have been
14 invited to participate in the debate or forum;

15 (c) A news item, feature, commentary, or editorial in a regularly
16 scheduled news medium that is:

17 (i) Of primary interest to the general public;

18 (ii) In a news medium controlled by a person whose business is that
19 news medium; and

20 (iii) Not a medium controlled by a candidate or a political
21 committee;

22 (d) Slate cards and sample ballots;

23 (e) Advertising for books, films, dissertations, or similar works
24 (i) written by a candidate when the candidate entered into a contract
25 for such publications or media at least twelve months before becoming
26 a candidate, or (ii) written about a candidate;

27 (f) Public service announcements;

28 (g) A mailed internal political communication primarily limited to
29 the members of or contributors to a political party organization or
30 political committee, or to the officers, management staff, or
31 stockholders of a corporation or similar enterprise, or to the members
32 of a labor organization or other membership organization;

33 (h) An expenditure by or contribution to the authorized committee
34 of a candidate for state, local, or judicial office; or

35 (i) Any other communication exempted by the commission through rule
36 consistent with the intent of this chapter.

37 (22) "Expenditure" includes a payment, contribution, subscription,
38 distribution, loan, advance, deposit, or gift of money or anything of

1 value, and includes a contract, promise, or agreement, whether or not
2 legally enforceable, to make an expenditure. The term "expenditure"
3 also includes a promise to pay, a payment, or a transfer of anything of
4 value in exchange for goods, services, property, facilities, or
5 anything of value for the purpose of assisting, benefiting, or honoring
6 any public official or candidate, or assisting in furthering or
7 opposing any election campaign. For the purposes of this chapter,
8 agreements to make expenditures, contracts, and promises to pay may be
9 reported as estimated obligations until actual payment is made. The
10 term "expenditure" shall not include the partial or complete repayment
11 by a candidate or political committee of the principal of a loan, the
12 receipt of which loan has been properly reported.

13 (23) "Final report" means the report described as a final report in
14 RCW 42.17.080(2).

15 (24) "General election" for the purposes of RCW 42.17.640 means the
16 election that results in the election of a person to a state office.
17 It does not include a primary.

18 (25) "Gift," is as defined in RCW 42.52.010.

19 (26) "Immediate family" includes the spouse or domestic partner,
20 dependent children, and other dependent relatives, if living in the
21 household. For the purposes of RCW 42.17.640 through 42.17.790,
22 "immediate family" means an individual's spouse or domestic partner,
23 and child, stepchild, grandchild, parent, stepparent, grandparent,
24 brother, half brother, sister, or half sister of the individual and the
25 spouse or the domestic partner of any such person and a child,
26 stepchild, grandchild, parent, stepparent, grandparent, brother, half
27 brother, sister, or half sister of the individual's spouse or domestic
28 partner and the spouse or the domestic partner of any such person.

29 (27) "Incumbent" means a person who is in present possession of an
30 elected office.

31 (28) "Independent expenditure" means an expenditure that has each
32 of the following elements:

33 (a) It is made in support of or in opposition to a candidate for
34 office by a person who is not (i) a candidate for that office, (ii) an
35 authorized committee of that candidate for that office, (iii) a person
36 who has received the candidate's encouragement or approval to make the
37 expenditure, if the expenditure pays in whole or in part for political
38 advertising supporting that candidate or promoting the defeat of any

1 other candidate or candidates for that office, or (iv) a person with
2 whom the candidate has collaborated for the purpose of making the
3 expenditure, if the expenditure pays in whole or in part for political
4 advertising supporting that candidate or promoting the defeat of any
5 other candidate or candidates for that office;

6 (b) The expenditure pays in whole or in part for political
7 advertising that either specifically names the candidate supported or
8 opposed, or clearly and beyond any doubt identifies the candidate
9 without using the candidate's name; and

10 (c) The expenditure, alone or in conjunction with another
11 expenditure or other expenditures of the same person in support of or
12 opposition to that candidate, has a value of five hundred dollars or
13 more. A series of expenditures, each of which is under five hundred
14 dollars, constitutes one independent expenditure if their cumulative
15 value is five hundred dollars or more.

16 (29)(a) "Intermediary" means an individual who transmits a
17 contribution to a candidate or committee from another person unless the
18 contribution is from the individual's employer, immediate family as
19 defined for purposes of RCW 42.17.640 through 42.17.790, or an
20 association to which the individual belongs.

21 (b) A treasurer or a candidate is not an intermediary for purposes
22 of the committee that the treasurer or candidate serves.

23 (c) A professional fund-raiser is not an intermediary if the fund-
24 raiser is compensated for fund-raising services at the usual and
25 customary rate.

26 (d) A volunteer hosting a fund-raising event at the individual's
27 home is not an intermediary for purposes of that event.

28 (30) "Legislation" means bills, resolutions, motions, amendments,
29 nominations, and other matters pending or proposed in either house of
30 the state legislature, and includes any other matter that may be the
31 subject of action by either house or any committee of the legislature
32 and all bills and resolutions that, having passed both houses, are
33 pending approval by the governor.

34 (31) "Lobby" and "lobbying" each mean attempting to influence the
35 passage or defeat of any legislation by the legislature of the state of
36 Washington, or the adoption or rejection of any rule, standard, rate,
37 or other legislative enactment of any state agency under the state

1 Administrative Procedure Act, chapter 34.05 RCW. Neither "lobby" nor
2 "lobbying" includes an association's or other organization's act of
3 communicating with the members of that association or organization.

4 (32) "Lobbyist" includes any person who lobbies either in his or
5 her own or another's behalf.

6 (33) "Lobbyist's employer" means the person or persons by whom a
7 lobbyist is employed and all persons by whom he or she is compensated
8 for acting as a lobbyist.

9 (34) "Ministerial functions" means an act or duty carried out as
10 part of the duties of an administrative office without exercise of
11 personal judgment or discretion.

12 (35) "Participate" means that, with respect to a particular
13 election, an entity:

14 (a) Makes either a monetary or in-kind contribution to a candidate;

15 (b) Makes an independent expenditure or electioneering
16 communication in support of or opposition to a candidate;

17 (c) Endorses a candidate prior to contributions being made by a
18 subsidiary corporation or local unit with respect to that candidate or
19 that candidate's opponent;

20 (d) Makes a recommendation regarding whether a candidate should be
21 supported or opposed prior to a contribution being made by a subsidiary
22 corporation or local unit with respect to that candidate or that
23 candidate's opponent; or

24 (e) Directly or indirectly collaborates or consults with a
25 subsidiary corporation or local unit on matters relating to the support
26 of or opposition to a candidate, including, but not limited to, the
27 amount of a contribution, when a contribution should be given, and what
28 assistance, services or independent expenditures, or electioneering
29 communications, if any, will be made or should be made in support of or
30 opposition to a candidate.

31 (36) "Person" includes an individual, partnership, joint venture,
32 public or private corporation, association, federal, state, or local
33 governmental entity or agency however constituted, candidate,
34 committee, political committee, political party, executive committee
35 thereof, or any other organization or group of persons, however
36 organized.

37 (37) "Person in interest" means the person who is the subject of a

1 record or any representative designated by that person, except that if
2 that person is under a legal disability, the term "person in interest"
3 means and includes the parent or duly appointed legal representative.

4 (38) "Political advertising" includes any advertising displays,
5 newspaper ads, billboards, signs, brochures, articles, tabloids,
6 flyers, letters, radio or television presentations, or other means of
7 mass communication, used for the purpose of appealing, directly or
8 indirectly, for votes or for financial or other support or opposition
9 in any election campaign.

10 (39) "Political committee" means any person (except a candidate or
11 an individual dealing with his or her own funds or property) having the
12 expectation of receiving contributions or making expenditures in
13 support of, or opposition to, any candidate or any ballot proposition.

14 (40) "Primary" for the purposes of RCW 42.17.640 means the
15 procedure for nominating a candidate to state office under chapter
16 29A.52 RCW or any other primary for an election that uses, in large
17 measure, the procedures established in chapter 29A.52 RCW.

18 (41) "Public office" means any federal, state, judicial, county,
19 city, town, school district, port district, special district, or other
20 state political subdivision elective office.

21 (42) "Public record" includes any writing containing information
22 relating to the conduct of government or the performance of any
23 governmental or proprietary function prepared, owned, used, or retained
24 by any state or local agency regardless of physical form or
25 characteristics. For the office of the secretary of the senate and the
26 office of the chief clerk of the house of representatives, public
27 records means legislative records as defined in RCW 40.14.100 and also
28 means the following: All budget and financial records; personnel
29 leave, travel, and payroll records; records of legislative sessions;
30 reports submitted to the legislature; and any other record designated
31 a public record by any official action of the senate or the house of
32 representatives.

33 (43) "Recall campaign" means the period of time beginning on the
34 date of the filing of recall charges under RCW 29A.56.120 and ending
35 thirty days after the recall election.

36 (44) "Sponsor of an electioneering communications, independent
37 expenditures, or political advertising" means the person paying for the
38 electioneering communication, independent expenditure, or political

1 advertising. If a person acts as an agent for another or is reimbursed
2 by another for the payment, the original source of the payment is the
3 sponsor.

4 (45) "State legislative office" means the office of a member of the
5 state house of representatives or the office of a member of the state
6 senate.

7 (46) "State office" means state legislative office or the office of
8 governor, lieutenant governor, secretary of state, attorney general,
9 commissioner of public lands, insurance commissioner, superintendent of
10 public instruction, state auditor, or state treasurer.

11 (47) "State official" means a person who holds a state office.

12 (48) "Surplus funds" mean, in the case of a political committee or
13 candidate, the balance of contributions that remain in the possession
14 or control of that committee or candidate subsequent to the election
15 for which the contributions were received, and that are in excess of
16 the amount necessary to pay remaining debts incurred by the committee
17 or candidate prior to that election. In the case of a continuing
18 political committee, "surplus funds" mean those contributions remaining
19 in the possession or control of the committee that are in excess of the
20 amount necessary to pay all remaining debts when it makes its final
21 report under RCW 42.17.065.

22 (49) "Writing" means handwriting, typewriting, printing,
23 photostating, photographing, and every other means of recording any
24 form of communication or representation, including, but not limited to,
25 letters, words, pictures, sounds, or symbols, or combination thereof,
26 and all papers, maps, magnetic or paper tapes, photographic films and
27 prints, motion picture, film and video recordings, magnetic or punched
28 cards, discs, drums, diskettes, sound recordings, and other documents
29 including existing data compilations from which information may be
30 obtained or translated.

31 As used in this chapter, the singular shall take the plural and any
32 gender, the other, as the context requires.

33 **Sec. 202.** RCW 42.17.241 and 1995 c 397 s 9 are each amended to
34 read as follows:

35 (1) The statement of financial affairs required by RCW 42.17.240
36 shall disclose for the reporting individual and each member of his or
37 her immediate family:

1 (a) Occupation, name of employer, and business address; and

2 (b) Each bank or savings account or insurance policy in which any
3 such person or persons owned a direct financial interest that exceeded
4 five thousand dollars at any time during the reporting period; each
5 other item of intangible personal property in which any such person or
6 persons owned a direct financial interest, the value of which exceeded
7 five hundred dollars during the reporting period; the name, address,
8 and nature of the entity; and the nature and highest value of each such
9 direct financial interest during the reporting period; and

10 (c) The name and address of each creditor to whom the value of five
11 hundred dollars or more was owed; the original amount of each debt to
12 each such creditor; the amount of each debt owed to each creditor as of
13 the date of filing; the terms of repayment of each such debt; and the
14 security given, if any, for each such debt: PROVIDED, That debts
15 arising out of a "retail installment transaction" as defined in chapter
16 63.14 RCW (Retail Installment Sales Act) need not be reported; and

17 (d) Every public or private office, directorship, and position held
18 as trustee; and

19 (e) All persons for whom any legislation, rule, rate, or standard
20 has been prepared, promoted, or opposed for current or deferred
21 compensation: PROVIDED, That for the purposes of this subsection,
22 "compensation" does not include payments made to the person reporting
23 by the governmental entity for which such person serves as an elected
24 official or state executive officer or professional staff member for
25 his service in office; the description of such actual or proposed
26 legislation, rules, rates, or standards; and the amount of current or
27 deferred compensation paid or promised to be paid; and

28 (f) The name and address of each governmental entity, corporation,
29 partnership, joint venture, sole proprietorship, association, union, or
30 other business or commercial entity from whom compensation has been
31 received in any form of a total value of five hundred dollars or more;
32 the value of the compensation; and the consideration given or performed
33 in exchange for the compensation; and

34 (g) The name of any corporation, partnership, joint venture,
35 association, union, or other entity in which is held any office,
36 directorship, or any general partnership interest, or an ownership
37 interest of ten percent or more; the name or title of that office,
38 directorship, or partnership; the nature of ownership interest; and

1 with respect to each such entity: (i) With respect to a governmental
2 unit in which the official seeks or holds any office or position, if
3 the entity has received compensation in any form during the preceding
4 twelve months from the governmental unit, the value of the compensation
5 and the consideration given or performed in exchange for the
6 compensation; (ii) the name of each governmental unit, corporation,
7 partnership, joint venture, sole proprietorship, association, union, or
8 other business or commercial entity from which the entity has received
9 compensation in any form in the amount of two thousand five hundred
10 dollars or more during the preceding twelve months and the
11 consideration given or performed in exchange for the compensation:
12 PROVIDED, That the term "compensation" for purposes of this subsection
13 (1)(g)(ii) does not include payment for water and other utility
14 services at rates approved by the Washington state utilities and
15 transportation commission or the legislative authority of the public
16 entity providing the service: PROVIDED, FURTHER, That with respect to
17 any bank or commercial lending institution in which is held any office,
18 directorship, partnership interest, or ownership interest, it shall
19 only be necessary to report either the name, address, and occupation of
20 every director and officer of the bank or commercial lending
21 institution and the average monthly balance of each account held during
22 the preceding twelve months by the bank or commercial lending
23 institution from the governmental entity for which the individual is an
24 official or candidate or professional staff member, or all interest
25 paid by a borrower on loans from and all interest paid to a depositor
26 by the bank or commercial lending institution if the interest exceeds
27 six hundred dollars; and

28 (h) A list, including legal or other sufficient descriptions as
29 prescribed by the commission, of all real property in the state of
30 Washington, the assessed valuation of which exceeds two thousand five
31 hundred dollars in which any direct financial interest was acquired
32 during the preceding calendar year, and a statement of the amount and
33 nature of the financial interest and of the consideration given in
34 exchange for that interest; and

35 (i) A list, including legal or other sufficient descriptions as
36 prescribed by the commission, of all real property in the state of
37 Washington, the assessed valuation of which exceeds two thousand five
38 hundred dollars in which any direct financial interest was divested

1 during the preceding calendar year, and a statement of the amount and
2 nature of the consideration received in exchange for that interest, and
3 the name and address of the person furnishing the consideration; and

4 (j) A list, including legal or other sufficient descriptions as
5 prescribed by the commission, of all real property in the state of
6 Washington, the assessed valuation of which exceeds two thousand five
7 hundred dollars in which a direct financial interest was held:
8 PROVIDED, That if a description of the property has been included in a
9 report previously filed, the property may be listed, for purposes of
10 this provision, by reference to the previously filed report; and

11 (k) A list, including legal or other sufficient descriptions as
12 prescribed by the commission, of all real property in the state of
13 Washington, the assessed valuation of which exceeds five thousand
14 dollars, in which a corporation, partnership, firm, enterprise, or
15 other entity had a direct financial interest, in which corporation,
16 partnership, firm, or enterprise a ten percent or greater ownership
17 interest was held; and

18 (l) A list of each occasion, specifying date, donor, and amount, at
19 which food and beverage in excess of fifty dollars was accepted under
20 RCW 42.52.150(5); (~~(+and+)~~) and

21 (m) A list of each occasion, specifying date, donor, and amount, at
22 which items specified in RCW 42.52.010(~~(+9+)~~) (10) (d) and (f) were
23 accepted; (~~(+and+)~~) and

24 (n) Such other information as the commission may deem necessary in
25 order to properly carry out the purposes and policies of this chapter,
26 as the commission shall prescribe by rule.

27 (2) Where an amount is required to be reported under subsection
28 (1)(a) through (m) of this section, it shall be sufficient to comply
29 with the requirement to report whether the amount is less than one
30 thousand dollars, at least one thousand dollars but less than five
31 thousand dollars, at least five thousand dollars but less than ten
32 thousand dollars, at least ten thousand dollars but less than twenty-
33 five thousand dollars, or twenty-five thousand dollars or more. An
34 amount of stock may be reported by number of shares instead of by
35 market value. No provision of this subsection may be interpreted to
36 prevent any person from filing more information or more detailed
37 information than required.

1 (3) Items of value given to an official's or employee's spouse,
2 domestic partner, or family member are attributable to the official or
3 employee, except the item is not attributable if an independent
4 business, family, or social relationship exists between the donor and
5 the spouse, domestic partner, or family member.

6 **Sec. 203.** RCW 42.52.040 and 1994 c 154 s 104 are each amended to
7 read as follows:

8 (1) Except in the course of official duties or incident to official
9 duties, no state officer or state employee may assist another person,
10 directly or indirectly, whether or not for compensation, in a
11 transaction involving the state:

12 (a) In which the state officer or state employee has at any time
13 participated; or

14 (b) If the transaction involving the state is or has been under the
15 official responsibility of the state officer or state employee within
16 a period of two years preceding such assistance.

17 (2) No state officer or state employee may share in compensation
18 received by another for assistance that the officer or employee is
19 prohibited from providing under subsection (1) or (3) of this section.

20 (3) A business entity of which a state officer or state employee is
21 a partner, managing officer, or employee shall not assist another
22 person in a transaction involving the state if the state officer or
23 state employee is prohibited from doing so by subsection (1) of this
24 section.

25 (4) This chapter does not prevent a state officer or state employee
26 from assisting, in a transaction involving the state:

27 (a) The state officer's or state employee's parent, spouse or
28 domestic partner, or child, or a child thereof for whom the officer or
29 employee is serving as guardian, executor, administrator, trustee, or
30 other personal fiduciary, if the state officer or state employee did
31 not participate in the transaction; or

32 (b) Another state employee involved in disciplinary or other
33 personnel administration proceedings.

34 **Sec. 204.** RCW 43.03.305 and 1999 c 102 s 1 are each amended to
35 read as follows:

1 There is created a commission to be known as the Washington
2 citizens' commission on salaries for elected officials, to consist of
3 sixteen members appointed by the governor as provided in this section.

4 (1) Nine of the sixteen commission members shall be selected by lot
5 by the secretary of state from among those registered voters eligible
6 to vote at the time persons are selected for appointment to full terms
7 on the commission under subsection (3) of this section. One member
8 shall be selected from each congressional district. The secretary
9 shall establish policies and procedures for conducting the selection by
10 lot. The policies and procedures shall include, but not be limited to,
11 those for notifying persons selected and for providing a new selection
12 from a congressional district if a person selected from the district
13 declines appointment to the commission or if, following the person's
14 appointment, the person's position on the commission becomes vacant
15 before the end of the person's term of office.

16 (2) The remaining seven of the sixteen commission members, all
17 residents of this state, shall be selected jointly by the speaker of
18 the house of representatives and the president of the senate. The
19 persons selected under this subsection shall have had experience in the
20 field of personnel management. Of these seven members, one shall be
21 selected from each of the following five sectors in this state:
22 Private institutions of higher education; business; professional
23 personnel management; legal profession; and organized labor. Of the
24 two remaining members, one shall be a person recommended to the speaker
25 and the president by the chair of the Washington personnel resources
26 board and one shall be a person recommended by majority vote of the
27 presidents of the state's four-year institutions of higher education.

28 (3) The secretary of state shall forward the names of persons
29 selected under subsection (1) of this section and the speaker of the
30 house of representatives and president of the senate shall forward the
31 names of persons selected under subsection (2) of this section to the
32 governor who shall appoint these persons to the commission. Except as
33 provided in subsection (6) of this section, the names of persons
34 selected for appointment to the commission shall be forwarded to the
35 governor not later than February 15, 1987, and not later than the
36 fifteenth day of February every four years through 1999. The terms of
37 the members selected in 1999 shall terminate July 1, 2002, and the
38 names of persons selected for appointment to the commission shall be

1 forwarded to the governor not later than July 1, 2002. Of the sixteen
2 names forwarded to the governor in 2002, the governor shall by lot
3 select four of the persons selected under subsection (1) of this
4 section and four of the persons selected under subsection (2) of this
5 section to serve two-year terms, with the rest of the members serving
6 four-year terms. Thereafter, except as provided in subsection (6) of
7 this section, all members shall serve four-year terms and the names of
8 eight persons selected for appointment to the commission shall be
9 forwarded to the governor not later than the first day of July every
10 two years.

11 (4) No person may be appointed to more than two terms. No member
12 of the commission may be removed by the governor during his or her term
13 of office unless for cause of incapacity, incompetence, neglect of
14 duty, or malfeasance in office or for a disqualifying change of
15 residence.

16 The unexcused absence of any person who is a member of the
17 commission from two consecutive meetings of the commission shall
18 constitute the relinquishment of that person's membership on the
19 commission. Such a relinquishment creates a vacancy in that person's
20 position on the commission. A member's absence may be excused by the
21 chair of the commission upon the member's written request if the chair
22 believes there is just cause for the absence. Such a request must be
23 received by the chair before the meeting for which the absence is to be
24 excused. A member's absence from a meeting of the commission may also
25 be excused during the meeting for which the member is absent by the
26 affirmative vote of a majority of the members of the commission present
27 at the meeting.

28 (5) No state official, public employee, or lobbyist, or immediate
29 family member of the official, employee, or lobbyist, subject to the
30 registration requirements of chapter 42.17 RCW is eligible for
31 membership on the commission.

32 As used in this subsection the phrase "immediate family" means the
33 parents, spouse or domestic partner, siblings, children, or dependent
34 relative of the official, employee, or lobbyist whether or not living
35 in the household of the official, employee, or lobbyist.

36 (6) Upon a vacancy in any position on the commission, a successor
37 shall be selected and appointed to fill the unexpired term. The

1 selection and appointment shall be concluded within thirty days of the
2 date the position becomes vacant and shall be conducted in the same
3 manner as originally provided.

4 **PART III - PUBLIC ASSISTANCE--NURSING HOMES--ELDER CARE**

5 **Sec. 301.** RCW 43.185A.010 and 2000 c 255 s 9 are each amended to
6 read as follows:

7 Unless the context clearly requires otherwise, the definitions in
8 this section apply throughout this chapter.

9 (1) "Affordable housing" means residential housing for rental
10 occupancy which, as long as the same is occupied by low-income
11 households, requires payment of monthly housing costs, including
12 utilities other than telephone, of no more than thirty percent of the
13 family's income. The department shall adopt policies for residential
14 homeownership housing, occupied by low-income households, which specify
15 the percentage of family income that may be spent on monthly housing
16 costs, including utilities other than telephone, to qualify as
17 affordable housing.

18 (2) "Department" means the department of community, trade, and
19 economic development.

20 (3) "Director" means the director of the department of community,
21 trade, and economic development.

22 (4) "First-time home buyer" means an individual or his or her
23 spouse or domestic partner who have not owned a home during the three-
24 year period prior to purchase of a home.

25 (5) "Low-income household" means a single person, family or
26 unrelated persons living together whose adjusted income is less than
27 eighty percent of the median family income, adjusted for household
28 size, for the county where the project is located.

29 **Sec. 302.** RCW 43.20B.080 and 2005 c 292 s 6 are each amended to
30 read as follows:

31 (1) The department shall file liens, seek adjustment, or otherwise
32 effect recovery for medical assistance correctly paid on behalf of an
33 individual consistent with 42 U.S.C. Sec. 1396p. The department shall
34 adopt a rule providing for prior notice and hearing rights to the
35 record title holder or purchaser under a land sale contract.

1 (2) Liens may be adjusted by foreclosure in accordance with chapter
2 61.12 RCW.

3 (3) In the case of an individual who was fifty-five years of age or
4 older when the individual received medical assistance, the department
5 shall seek adjustment or recovery from the individual's estate, and
6 from nonprobate assets of the individual as defined by RCW 11.02.005,
7 but only for medical assistance consisting of nursing facility
8 services, home and community-based services, other services that the
9 department determines to be appropriate, and related hospital and
10 prescription drug services. Recovery from the individual's estate,
11 including foreclosure of liens imposed under this section, shall be
12 undertaken as soon as practicable, consistent with 42 U.S.C. Sec.
13 1396p.

14 (4) The department shall apply the medical assistance estate
15 recovery law as it existed on the date that benefits were received when
16 calculating an estate's liability to reimburse the department for those
17 benefits.

18 (5)(a) The department shall establish procedures consistent with
19 standards established by the federal department of health and human
20 services and pursuant to 42 U.S.C. Sec. 1396p to waive recovery when
21 such recovery would work an undue hardship. The department shall
22 recognize an undue hardship for a surviving domestic partner whenever
23 recovery would not have been permitted if he or she had been a
24 surviving spouse. The department is not authorized to pursue recovery
25 under such circumstances.

26 (b) Recovery of medical assistance from a recipient's estate shall
27 not include property made exempt from claims by federal law or treaty,
28 including exemption for tribal artifacts that may be held by individual
29 Native Americans.

30 (6) A lien authorized under this section relates back to attach to
31 any real property that the decedent had an ownership interest in
32 immediately before death and is effective as of that date or date of
33 recording, whichever is earlier.

34 (7) The department may enforce a lien authorized under this section
35 against a decedent's life estate or joint tenancy interest in real
36 property held by the decedent immediately prior to his or her death.
37 Such a lien enforced under this subsection shall not end and shall

1 continue as provided in this subsection until the department's lien has
2 been satisfied.

3 (a) The value of the life estate subject to the lien shall be the
4 value of the decedent's interest in the property subject to the life
5 estate immediately prior to the decedent's death.

6 (b) The value of the joint tenancy interest subject to the lien
7 shall be the value of the decedent's fractional interest the recipient
8 would have owned in the jointly held interest in the property had the
9 recipient and the surviving joint tenants held title to the property as
10 tenants in common on the date of the recipient's death.

11 (c) The department may not enforce the lien provided by this
12 subsection against a bona fide purchaser or encumbrancer that obtains
13 an interest in the property after the death of the recipient and before
14 the department records either its lien or the request for notice of
15 transfer or encumbrance as provided by RCW 43.20B.750.

16 (d) The department may not enforce a lien provided by this
17 subsection against any property right that vested prior to July 1,
18 2005.

19 (8)(a) Subject to the requirements of 42 U.S.C. Sec. 1396p(a) and
20 the conditions of this subsection (8), the department is authorized to
21 file a lien against the property of an individual prior to his or her
22 death, and to seek adjustment and recovery from the individual's estate
23 or sale of the property subject to the lien, if:

24 (i) The individual is an inpatient in a nursing facility,
25 intermediate care facility for individuals with mental retardation, or
26 other medical institution; and

27 (ii) The department has determined after notice and opportunity for
28 a hearing that the individual cannot reasonably be expected to be
29 discharged from the medical institution and to return home.

30 (b) If the individual is discharged from the medical facility and
31 returns home, the department shall dissolve the lien.

32 (9) The department is authorized to adopt rules to effect recovery
33 under this section. The department may adopt by rule later enactments
34 of the federal laws referenced in this section.

35 (10) It is the responsibility of the department to fully disclose
36 in advance verbally and in writing, in easy to understand language, the
37 terms and conditions of estate recovery to all persons offered long-
38 term care services subject to recovery of payments.

1 (11) In disclosing estate recovery costs to potential clients, and
2 to family members at the consent of the client, the department shall
3 provide a written description of the community service options.

4 **Sec. 303.** RCW 70.123.020 and 1991 c 301 s 9 are each amended to
5 read as follows:

6 Unless the context clearly requires otherwise, the definitions in
7 this section apply throughout this chapter.

8 (1) "Shelter" means a place of temporary refuge, offered on a
9 twenty-four hour, seven day per week basis to victims of domestic
10 violence and their children.

11 (2) "Domestic violence" is a categorization of offenses, as defined
12 in RCW 10.99.020, committed by one cohabitant against another.

13 (3) "Department" means the department of social and health
14 services.

15 (4) "Victim" means a cohabitant who has been subjected to domestic
16 violence.

17 (5) "Cohabitant" means a person who is or was married, in a state
18 registered domestic partnership, or (~~who is~~) cohabiting with (~~(a)~~)
19 another person (~~(of the opposite sex like husband and wife)~~) in an
20 intimate or dating relationship at the present or at sometime in the
21 past. Any person who has one or more children in common with another
22 person, regardless of whether they have been married, in a domestic
23 partnership with each other, or lived together at any time, shall be
24 treated as a cohabitant.

25 (6) "Community advocate" means a person employed by a local
26 domestic violence program to provide ongoing assistance to victims of
27 domestic violence in assessing safety needs, documenting the incidents
28 and the extent of violence for possible use in the legal system, making
29 appropriate social service referrals, and developing protocols and
30 maintaining ongoing contacts necessary for local systems coordination.

31 (7) "Domestic violence program" means an agency that provides
32 shelter, advocacy, and counseling for domestic violence victims in a
33 supportive environment.

34 (8) "Legal advocate" means a person employed by a domestic violence
35 program or court system to advocate for victims of domestic violence,
36 within the criminal and civil justice systems, by attending court

1 proceedings, assisting in document and case preparation, and ensuring
2 linkage with the community advocate.

3 (9) "Secretary" means the secretary of the department of social and
4 health services or the secretary's designee.

5 **Sec. 304.** RCW 70.129.140 and 1994 c 214 s 15 are each amended to
6 read as follows:

7 (1) The facility must promote care for residents in a manner and in
8 an environment that maintains or enhances each resident's dignity and
9 respect in full recognition of his or her individuality.

10 (2) Within reasonable facility rules designed to protect the rights
11 and quality of life of residents, the resident has the right to:

12 (a) Choose activities, schedules, and health care consistent with
13 his or her interests, assessments, and plans of care;

14 (b) Interact with members of the community both inside and outside
15 the facility;

16 (c) Make choices about aspects of his or her life in the facility
17 that are significant to the resident;

18 (d) Wear his or her own clothing and determine his or her own
19 dress, hair style, or other personal effects according to individual
20 preference;

21 (e) Unless adjudged incompetent or otherwise found to be legally
22 incapacitated, participate in planning care and treatment or changes in
23 care and treatment;

24 (f) Unless adjudged incompetent or otherwise found to be legally
25 incapacitated, to direct his or her own service plan and changes in the
26 service plan, and to refuse any particular service so long as such
27 refusal is documented in the record of the resident.

28 (3)(a) A resident has the right to organize and participate in
29 resident groups in the facility.

30 (b) A resident's family has the right to meet in the facility with
31 the families of other residents in the facility.

32 (c) The facility must provide a resident or family group, if one
33 exists, with meeting space.

34 (d) Staff or visitors may attend meetings at the group's
35 invitation.

36 (e) When a resident or family group exists, the facility must

1 listen to the views and act upon the grievances and recommendations of
2 residents and families concerning proposed policy and operational
3 decisions affecting resident care and life in the facility.

4 (f) The resident has the right to refuse to perform services for
5 the facility except as voluntarily agreed by the resident and the
6 facility in the resident's service plan.

7 (4) A resident has the right to participate in social, religious,
8 and community activities that do not interfere with the rights of other
9 residents in the facility.

10 (5) A resident has the right to:

11 (a) Reside and receive services in the facility with reasonable
12 accommodation of individual needs and preferences, except when the
13 health or safety of the individual or other residents would be
14 endangered; and

15 (b) Receive notice before the resident's room or roommate in the
16 facility is changed.

17 (6) A resident has the right to share a double room with his or her
18 spouse or domestic partner when (~~married~~) residents who are married
19 to each other or in a domestic partnership with each other live in the
20 same facility and both spouses or both domestic partners consent to the
21 arrangement.

22 **Sec. 305.** RCW 74.42.070 and 1979 ex.s. c 211 s 7 are each amended
23 to read as follows:

24 Residents shall be given privacy during treatment and care of
25 personal needs. (~~Married~~) Residents who are spouses or domestic
26 partners shall be given privacy during visits with their spouses or
27 their domestic partners. If both (~~husband and wife~~) spouses or both
28 domestic partners are residents of the facility, the facility shall
29 permit the (~~husband and wife~~) spouses or domestic partners to share
30 a room, unless medically contraindicated.

31 **PART IV - JUDICIAL PROCESS--VICTIM'S RIGHTS**

32 **Sec. 401.** RCW 4.22.020 and 1987 c 212 s 801 are each amended to
33 read as follows:

34 The contributory fault of one spouse or one domestic partner shall
35 not be imputed to the other spouse or other domestic partner or the

1 minor child of the spouse or domestic partner to diminish recovery in
2 an action by the other spouse or other domestic partner or the minor
3 child of the spouse or other domestic partner, or his or her legal
4 representative, to recover damages caused by fault resulting in death
5 or in injury to the person or property, whether separate or community,
6 of the spouse or domestic partner. In an action brought for wrongful
7 death or loss of consortium, the contributory fault of the decedent or
8 injured person shall be imputed to the claimant in that action.

9 **Sec. 402.** RCW 5.60.060 and 2007 c 472 s 1 are each amended to read
10 as follows:

11 (1) A (~~husband~~) spouse or domestic partner shall not be examined
12 for or against his (~~wife~~) or her spouse or domestic partner, without
13 the consent of the (~~wife, nor a wife for or against her husband~~
14 ~~without the consent of the husband~~) spouse or domestic partner; nor
15 can either during marriage or during the domestic partnership or
16 afterward, be without the consent of the other, examined as to any
17 communication made by one to the other during the marriage or the
18 domestic partnership. But this exception shall not apply to a civil
19 action or proceeding by one against the other, nor to a criminal action
20 or proceeding for a crime committed by one against the other, nor to a
21 criminal action or proceeding against a spouse or domestic partner if
22 the marriage or the domestic partnership occurred subsequent to the
23 filing of formal charges against the defendant, nor to a criminal
24 action or proceeding for a crime committed by said (~~husband or wife~~)
25 spouse or domestic partner against any child of whom said (~~husband or~~
26 ~~wife~~) spouse or domestic partner is the parent or guardian, nor to a
27 proceeding under chapter 70.96A, 70.96B, 71.05, or 71.09 RCW:
28 PROVIDED, That the spouse or the domestic partner of a person sought to
29 be detained under chapter 70.96A, 70.96B, 71.05, or 71.09 RCW may not
30 be compelled to testify and shall be so informed by the court prior to
31 being called as a witness.

32 (2)(a) An attorney or counselor shall not, without the consent of
33 his or her client, be examined as to any communication made by the
34 client to him or her, or his or her advice given thereon in the course
35 of professional employment.

36 (b) A parent or guardian of a minor child arrested on a criminal
37 charge may not be examined as to a communication between the child and

1 his or her attorney if the communication was made in the presence of
2 the parent or guardian. This privilege does not extend to
3 communications made prior to the arrest.

4 (3) A member of the clergy, a Christian Science practitioner listed
5 in the Christian Science Journal, or a priest shall not, without the
6 consent of a person making the confession or sacred confidence, be
7 examined as to any confession or sacred confidence made to him or her
8 in his or her professional character, in the course of discipline
9 enjoined by the church to which he or she belongs.

10 (4) Subject to the limitations under RCW 70.96A.140 or 71.05.360
11 (8) and (9), a physician or surgeon or osteopathic physician or surgeon
12 or podiatric physician or surgeon shall not, without the consent of his
13 or her patient, be examined in a civil action as to any information
14 acquired in attending such patient, which was necessary to enable him
15 or her to prescribe or act for the patient, except as follows:

16 (a) In any judicial proceedings regarding a child's injury,
17 neglect, or sexual abuse or the cause thereof; and

18 (b) Ninety days after filing an action for personal injuries or
19 wrongful death, the claimant shall be deemed to waive the physician-
20 patient privilege. Waiver of the physician-patient privilege for any
21 one physician or condition constitutes a waiver of the privilege as to
22 all physicians or conditions, subject to such limitations as a court
23 may impose pursuant to court rules.

24 (5) A public officer shall not be examined as a witness as to
25 communications made to him or her in official confidence, when the
26 public interest would suffer by the disclosure.

27 (6)(a) A peer support group counselor shall not, without consent of
28 the law enforcement officer or firefighter making the communication, be
29 compelled to testify about any communication made to the counselor by
30 the officer or firefighter while receiving counseling. The counselor
31 must be designated as such by the sheriff, police chief, fire chief, or
32 chief of the Washington state patrol, prior to the incident that
33 results in counseling. The privilege only applies when the
34 communication was made to the counselor while acting in his or her
35 capacity as a peer support group counselor. The privilege does not
36 apply if the counselor was an initial responding officer or
37 firefighter, a witness, or a party to the incident which prompted the

1 delivery of peer support group counseling services to the law
2 enforcement officer or firefighter.

3 (b) For purposes of this section, "peer support group counselor"
4 means a:

5 (i) Law enforcement officer, firefighter, civilian employee of a
6 law enforcement agency, or civilian employee of a fire department, who
7 has received training to provide emotional and moral support and
8 counseling to an officer or firefighter who needs those services as a
9 result of an incident in which the officer or firefighter was involved
10 while acting in his or her official capacity; or

11 (ii) Nonemployee counselor who has been designated by the sheriff,
12 police chief, fire chief, or chief of the Washington state patrol to
13 provide emotional and moral support and counseling to an officer or
14 firefighter who needs those services as a result of an incident in
15 which the officer or firefighter was involved while acting in his or
16 her official capacity.

17 (7) A sexual assault advocate may not, without the consent of the
18 victim, be examined as to any communication made between the victim and
19 the sexual assault advocate.

20 (a) For purposes of this section, "sexual assault advocate" means
21 the employee or volunteer from a rape crisis center, victim assistance
22 unit, program, or association, that provides information, medical or
23 legal advocacy, counseling, or support to victims of sexual assault,
24 who is designated by the victim to accompany the victim to the hospital
25 or other health care facility and to proceedings concerning the alleged
26 assault, including police and prosecution interviews and court
27 proceedings.

28 (b) A sexual assault advocate may disclose a confidential
29 communication without the consent of the victim if failure to disclose
30 is likely to result in a clear, imminent risk of serious physical
31 injury or death of the victim or another person. Any sexual assault
32 advocate participating in good faith in the disclosing of records and
33 communications under this section shall have immunity from any
34 liability, civil, criminal, or otherwise, that might result from the
35 action. In any proceeding, civil or criminal, arising out of a
36 disclosure under this section, the good faith of the sexual assault
37 advocate who disclosed the confidential communication shall be
38 presumed.

1 (8) A domestic violence advocate may not, without the consent of
2 the victim, be examined as to any communication between the victim and
3 the domestic violence advocate.

4 (a) For purposes of this section, "domestic violence advocate"
5 means an employee or supervised volunteer from a community-based
6 domestic violence program or human services program that provides
7 information, advocacy, counseling, crisis intervention, emergency
8 shelter, or support to victims of domestic violence and who is not
9 employed by, or under the direct supervision of, a law enforcement
10 agency, a prosecutor's office, or the child protective services section
11 of the department of social and health services as defined in RCW
12 26.44.020.

13 (b) A domestic violence advocate may disclose a confidential
14 communication without the consent of the victim if failure to disclose
15 is likely to result in a clear, imminent risk of serious physical
16 injury or death of the victim or another person. This section does not
17 relieve a domestic violence advocate from the requirement to report or
18 cause to be reported an incident under RCW 26.44.030(1) or to disclose
19 relevant records relating to a child as required by RCW
20 26.44.030(~~(11)~~) (12). Any domestic violence advocate participating
21 in good faith in the disclosing of communications under this subsection
22 is immune from liability, civil, criminal, or otherwise, that might
23 result from the action. In any proceeding, civil or criminal, arising
24 out of a disclosure under this subsection, the good faith of the
25 domestic violence advocate who disclosed the confidential communication
26 shall be presumed.

27 **Sec. 403.** RCW 5.66.010 and 2002 c 334 s 1 are each amended to read
28 as follows:

29 (1) The portion of statements, writings, or benevolent gestures
30 expressing sympathy or a general sense of benevolence relating to the
31 pain, suffering, or death of a person involved in an accident, and made
32 to that person or to the family of that person, shall be inadmissible
33 as evidence in a civil action. A statement of fault, however, which is
34 part of, or in addition to, any of the above shall not be made
35 inadmissible by this section.

36 (2) For purposes of this section:

1 (a) "Accident" means an occurrence resulting in injury or death to
2 one or more persons that is not the result of willful action by a
3 party.

4 (b) "Benevolent gestures" means actions that convey a sense of
5 compassion or commiseration emanating from humane impulses.

6 (c) "Family" means the spouse or the domestic partner, parent,
7 grandparent, stepmother, stepfather, child, grandchild, brother,
8 sister, half brother, half sister, adopted child of a parent, or
9 spouse's or domestic partner's parents of an injured party.

10 **Sec. 404.** RCW 7.69.020 and 1993 c 350 s 5 are each amended to read
11 as follows:

12 Unless the context clearly requires otherwise, the definitions in
13 this section apply throughout this chapter.

14 (1) "Crime" means an act punishable as a felony, gross misdemeanor,
15 or misdemeanor under the laws of this state or equivalent federal or
16 local law.

17 (2) "Survivor" or "survivors" of a victim of crime means a spouse
18 or domestic partner, child, parent, legal guardian, sibling, or
19 grandparent. If there is more than one survivor of a victim of crime,
20 one survivor shall be designated by the prosecutor to represent all
21 survivors for purposes of providing the notice to survivors required by
22 this chapter.

23 (3) "Victim" means a person against whom a crime has been committed
24 or the representative of a person against whom a crime has been
25 committed.

26 (4) "Victim impact statement" means a statement submitted to the
27 court by the victim or a survivor, individually or with the assistance
28 of the prosecuting attorney if assistance is requested by the victim or
29 survivor, which may include but is not limited to information assessing
30 the financial, medical, social, and psychological impact of the offense
31 upon the victim or survivors.

32 (5) "Witness" means a person who has been or is expected to be
33 summoned to testify for the prosecution in a criminal action, or who by
34 reason of having relevant information is subject to call or likely to
35 be called as a witness for the prosecution, whether or not an action or
36 proceeding has been commenced.

1 (6) "Crime victim/witness program" means any crime victim and
2 witness program of a county or local law enforcement agency or
3 prosecutor's office, any rape crisis center's sexual assault victim
4 advocacy program as provided in chapter 70.125 RCW, any domestic
5 violence program's legal and community advocate program for domestic
6 violence victims as provided in chapter 70.123 RCW, or any other crime
7 victim advocacy program which provides trained advocates to assist
8 crime victims during the investigation and prosecution of the crime.

9 **Sec. 405.** RCW 7.69B.010 and 2005 c 381 s 2 are each amended to
10 read as follows:

11 Unless the context clearly requires otherwise, the definitions in
12 this section apply throughout this chapter.

13 (1) "Crime" means an act punishable as a felony, gross misdemeanor,
14 or misdemeanor under the laws of this state or equivalent federal or
15 local law.

16 (2) "Dependent person" has the same meaning as that term is defined
17 in RCW 9A.42.010.

18 (3) "Victim" means a living person against whom a crime has been
19 committed.

20 (4) "Witness" means a person who has been or is expected to be
21 summoned to testify for the prosecution or defense in a criminal
22 action, or who by reason of having relevant information is subject to
23 call or likely to be called as a witness, whether or not an action or
24 proceeding has been commenced.

25 (5) "Family member" means a person who is not accused of a crime
26 and who is an adult child, adult sibling, spouse or domestic partner,
27 parent, or legal guardian of the dependent person.

28 (6) "Advocate" means any person not accused of a crime, including
29 a family member, approved by the witness or victim, in consultation
30 with his or her guardian if applicable, who provides support to a
31 dependent person during any legal proceeding.

32 (7) "Court proceedings" means any court proceeding conducted during
33 the course of the prosecution of a crime committed against a dependent
34 person, including pretrial hearings, trial, sentencing, or appellate
35 proceedings.

36 (8) "Identifying information" means the dependent person's name,

1 address, location, and photograph, and in cases in which the dependent
2 person is a relative of the alleged perpetrator, identification of the
3 relationship between the dependent person and the alleged perpetrator.

4 (9) "Crime victim/witness program" means any crime victim and
5 witness program of a county or local law enforcement agency or
6 prosecutor's office, any rape crisis center's sexual assault victim
7 advocacy program as provided in chapter 70.125 RCW, any domestic
8 violence program's legal and community advocate program for domestic
9 violence victims as provided in chapter 70.123 RCW, or any other crime
10 victim advocacy program which provides trained advocates to assist
11 crime victims during the investigation and prosecution of the crime.

12 **Sec. 406.** RCW 26.50.010 and 1999 c 184 s 13 are each amended to
13 read as follows:

14 As used in this chapter, the following terms shall have the
15 meanings given them:

16 (1) "Domestic violence" means: (a) Physical harm, bodily injury,
17 assault, or the infliction of fear of imminent physical harm, bodily
18 injury or assault, between family or household members; (b) sexual
19 assault of one family or household member by another; or (c) stalking
20 as defined in RCW 9A.46.110 of one family or household member by
21 another family or household member.

22 (2) "Family or household members" means spouses, domestic partners,
23 former spouses, former domestic partners, persons who have a child in
24 common regardless of whether they have been married or have lived
25 together at any time, adult persons related by blood or marriage, adult
26 persons who are presently residing together or who have resided
27 together in the past, persons sixteen years of age or older who are
28 presently residing together or who have resided together in the past
29 and who have or have had a dating relationship, persons sixteen years
30 of age or older with whom a person sixteen years of age or older has or
31 has had a dating relationship, and persons who have a biological or
32 legal parent-child relationship, including stepparents and stepchildren
33 and grandparents and grandchildren.

34 (3) "Dating relationship" means a social relationship of a romantic
35 nature. Factors that the court may consider in making this
36 determination include: (a) The length of time the relationship has

1 existed; (b) the nature of the relationship; and (c) the frequency of
2 interaction between the parties.

3 (4) "Court" includes the superior, district, and municipal courts
4 of the state of Washington.

5 (5) "Judicial day" does not include Saturdays, Sundays, or legal
6 holidays.

7 (6) "Electronic monitoring" means a program in which a person's
8 presence at a particular location is monitored from a remote location
9 by use of electronic equipment.

10 (7) "Essential personal effects" means those items necessary for a
11 person's immediate health, welfare, and livelihood. "Essential
12 personal effects" includes but is not limited to clothing, cribs,
13 bedding, documents, medications, and personal hygiene items.

14 **Sec. 407.** RCW 4.08.030 and 1972 ex.s. c 108 s 1 are each amended
15 to read as follows:

16 Either (~~husband or wife~~) spouse or either domestic partner may
17 sue on behalf of the community: PROVIDED, That

18 (1) When the action is for personal injuries, the spouse or the
19 domestic partner having sustained personal injuries is a necessary
20 party;

21 (2) When the action is for compensation for services rendered, the
22 spouse or the domestic partner having rendered the services is a
23 necessary party.

24 **Sec. 408.** RCW 4.08.040 and 1972 ex.s. c 108 s 2 are each amended
25 to read as follows:

26 (~~Husband and wife~~) Either spouse or either domestic partner may
27 join in all causes of action arising from injuries to the person or
28 character of either or both of them, or from injuries to the property
29 of either or both of them, or arising out of any contract in favor of
30 either or both of them.

31 If (~~a husband and wife be~~) the spouses or the domestic partners
32 are sued together, either or both spouses or either or both domestic
33 partners may defend, and if one spouse or one domestic partner neglects
34 to defend, the other spouse or other domestic partner may defend for
35 the nonacting spouse or nonacting domestic partner also. (~~And~~) Each

1 spouse or each domestic partner may defend in all cases in which he or
2 she is interested, whether that spouse or that domestic partner is sued
3 with the other spouse or other domestic partner or not.

4 **Sec. 409.** RCW 4.20.046 and 1993 c 44 s 1 are each amended to read
5 as follows:

6 (1) All causes of action by a person or persons against another
7 person or persons shall survive to the personal representatives of the
8 former and against the personal representatives of the latter, whether
9 such actions arise on contract or otherwise, and whether or not such
10 actions would have survived at the common law or prior to the date of
11 enactment of this section: PROVIDED, HOWEVER, That the personal
12 representative shall only be entitled to recover damages for pain and
13 suffering, anxiety, emotional distress, or humiliation personal to and
14 suffered by a deceased on behalf of those beneficiaries enumerated in
15 RCW 4.20.020, and such damages are recoverable regardless of whether or
16 not the death was occasioned by the injury that is the basis for the
17 action. The liability of property of (~~a husband and wife~~) spouses or
18 domestic partners held by them as community property to execution in
19 satisfaction of a claim enforceable against such property so held shall
20 not be affected by the death of either or both spouses or either or
21 both domestic partners; and a cause of action shall remain an asset as
22 though both claiming spouses or both claiming domestic partners
23 continued to live despite the death of either or both claiming spouses
24 or both claiming domestic partners.

25 (2) Where death or an injury to person or property, resulting from
26 a wrongful act, neglect or default, occurs simultaneously with or after
27 the death of a person who would have been liable therefor if his or her
28 death had not occurred simultaneously with such death or injury or had
29 not intervened between the wrongful act, neglect or default and the
30 resulting death or injury, an action to recover damages for such death
31 or injury may be maintained against the personal representative of such
32 person.

33 **PART V - VETERANS**

34 **Sec. 501.** RCW 28B.15.621 and 2007 c 450 s 1 are each amended to
35 read as follows:

1 (1) The legislature finds that active military and naval veterans,
2 reserve military and naval veterans, and national guard members called
3 to active duty have served their country and have risked their lives to
4 defend the lives of all Americans and the freedoms that define and
5 distinguish our nation. The legislature intends to honor active
6 military and naval veterans, reserve military and naval veterans, and
7 national guard members who have served on active military or naval duty
8 for the public service they have provided to this country.

9 (2) Subject to the limitations in RCW 28B.15.910, the governing
10 boards of the state universities, the regional universities, The
11 Evergreen State College, and the community colleges, may waive all or
12 a portion of tuition and fees for an eligible veteran or national guard
13 member.

14 (3) The governing boards of the state universities, the regional
15 universities, The Evergreen State College, and the community colleges,
16 may waive all or a portion of tuition and fees for a military or naval
17 veteran who is a Washington domiciliary, but who did not serve on
18 foreign soil or in international waters or in another location in
19 support of those serving on foreign soil or in international waters and
20 who does not qualify as an eligible veteran or national guard member
21 under subsection (8) of this section. However, there shall be no state
22 general fund support for waivers granted under this subsection.

23 (4) Subject to the conditions in subsection (5) of this section,
24 the governing boards of the state universities, the regional
25 universities, The Evergreen State College, and the community colleges,
26 shall waive all tuition and fees for the following persons:

27 (a) A child and the spouse or the domestic partner or surviving
28 spouse or surviving domestic partner of an eligible veteran or national
29 guard member who became totally disabled as defined in RCW 28B.15.385
30 while engaged in active federal military or naval service, or who is
31 determined by the federal government to be a prisoner of war or missing
32 in action; and

33 (b) A child and the surviving spouse or surviving domestic partner
34 of an eligible veteran or national guard member who lost his or her
35 life while engaged in active federal military or naval service.

36 (5) The conditions in this subsection (5) apply to waivers under
37 subsection (4) of this section.

1 (a) A child must be a Washington domiciliary between the age of
2 seventeen and twenty-six to be eligible for the tuition waiver. A
3 child's marital status does not affect eligibility.

4 (b) A surviving spouse or surviving domestic partner must be a
5 Washington domiciliary. A surviving spouse or surviving domestic
6 partner has ten years from the date of the death, total disability as
7 defined in RCW 28B.15.385, or federal determination of prisoner of war
8 or missing in action status of the eligible veteran or national guard
9 member to receive the benefit. Upon remarriage or registration in a
10 subsequent domestic partnership, the surviving spouse or surviving
11 domestic partner is ineligible for the waiver of all tuition and fees.

12 (c) Each recipient's continued participation is subject to the
13 school's satisfactory progress policy.

14 (6) Required waivers of all tuition and fees under subsection (4)
15 of this section shall not affect permissive waivers of tuition and fees
16 under subsection (3) of this section.

17 (7) Private vocational schools and private higher education
18 institutions are encouraged to provide waivers consistent with the
19 terms in subsections (2) through (5) of this section.

20 (8) The definitions in this subsection apply throughout this
21 section.

22 (a) "Eligible veteran or national guard member" means a Washington
23 domiciliary who was an active or reserve member of the United States
24 military or naval forces, or a national guard member called to active
25 duty, who served in active federal service, under either Title 10 or
26 Title 32 of the United States Code, in a war or conflict fought on
27 foreign soil or in international waters or in another location in
28 support of those serving on foreign soil or in international waters,
29 and if discharged from service, has received an honorable discharge.

30 (b) "Washington domiciliary" means a person whose true, fixed, and
31 permanent house and place of habitation is the state of Washington.
32 "Washington domiciliary" includes a person who is residing in rental
33 housing or residing in base housing. In ascertaining whether a child
34 or surviving spouse or surviving domestic partner is domiciled in the
35 state of Washington, public institutions of higher education shall, to
36 the fullest extent possible, rely upon the standards provided in RCW
37 28B.15.013.

1 **Sec. 502.** RCW 73.08.005 and 2005 c 250 s 2 are each amended to
2 read as follows:

3 The definitions in this section apply throughout this chapter
4 unless the context clearly requires otherwise.

5 (1) "Direct costs" includes those allowable costs that can be
6 readily assigned to the statutory objectives of this chapter,
7 consistent with the cost principles promulgated by the federal office
8 of management and budget in circular No. A-87, dated May 10, 2004.

9 (2) "Family" means the spouse or domestic partner, (~~widow,~~
10 ~~widower~~) surviving spouse, surviving domestic partner, and dependent
11 children of a living or deceased veteran.

12 (3) "Indigent" means a person who is defined as such by the county
13 legislative authority using one or more of the following definitions:

14 (a) Receiving one of the following types of public assistance:
15 Temporary assistance for needy families, general assistance, poverty-
16 related veterans' benefits, food stamps or food stamp benefits
17 transferred electronically, refugee resettlement benefits, medicaid, or
18 supplemental security income;

19 (b) Receiving an annual income, after taxes, of up to one hundred
20 fifty percent or less of the current federally established poverty
21 level, or receiving an annual income not exceeding a higher qualifying
22 income established by the county legislative authority; or

23 (c) Unable to pay reasonable costs for shelter, food, utilities,
24 and transportation because his or her available funds are insufficient.

25 (4) "Indirect costs" includes those allowable costs that are
26 generally associated with carrying out the statutory objectives of this
27 chapter, but the identification and tracking of those costs cannot be
28 readily assigned to a specific statutory objective without an
29 accounting effort that is disproportionate to the benefit received. A
30 county legislative authority may allocate allowable indirect costs to
31 its veterans' assistance fund if it is accomplished in a manner
32 consistent with the cost principles promulgated by the federal office
33 of management and budget in circular No. A-87, dated May 10, 2004.

34 (5) "Veteran" has the same meaning as defined in RCW 41.04.005 and
35 41.04.007.

36 (6) "Veterans' advisory board" means a board established by a
37 county legislative authority under the authority of RCW 73.08.035.

1 (7) "Veterans' assistance fund" means an account in the custody of
2 the county auditor, or the chief financial officer in a county
3 operating under a charter, that is funded by taxes levied under the
4 authority of RCW 73.08.080.

5 (8) "Veterans' assistance program" means a program approved by the
6 county legislative authority under the authority of RCW 73.08.010 that
7 is fully or partially funded by the veterans' assistance fund
8 authorized by RCW 73.08.080.

9 **Sec. 503.** RCW 72.36.030 and 1998 c 322 s 49 are each amended to
10 read as follows:

11 All of the following persons who have been actual bona fide
12 residents of this state at the time of their application, and who are
13 indigent and unable to support themselves and their families may be
14 admitted to a state veterans' home under rules as may be adopted by the
15 director of the department, unless sufficient facilities and resources
16 are not available to accommodate these people:

17 (1)(a) All honorably discharged veterans of a branch of the armed
18 forces of the United States or merchant marines; (b) members of the
19 state militia disabled while in the line of duty; (c) Filipino World
20 War II veterans who swore an oath to American authority and who
21 participated in military engagements with American soldiers; and (d)
22 the spouses or the domestic partners of these veterans, merchant
23 marines, and members of the state militia. However, it is required
24 that the spouse was married to and living with the veteran, or that the
25 domestic partner was in a domestic partnership and living with the
26 veteran, three years prior to the date of application for admittance,
27 or, if married to or in a domestic partnership with him or her since
28 that date, was also a resident of a state veterans' home in this state
29 or entitled to admission thereto;

30 (2)(a) The spouses or domestic partners of: (i) All honorably
31 discharged veterans of the United States armed forces; (ii) merchant
32 marines; and (iii) members of the state militia who were disabled while
33 in the line of duty and who were residents of a state veterans' home in
34 this state or were entitled to admission to one of this state's state
35 veteran homes at the time of death; (b) the spouses or domestic
36 partners of: (i) All honorably discharged veterans of a branch of the
37 United States armed forces; (ii) merchant marines; and (iii) members of

1 the state militia who would have been entitled to admission to one of
2 this state's state veterans' homes at the time of death, but for the
3 fact that the spouse or domestic partner was not indigent, but has
4 since become indigent and unable to support himself or herself and his
5 or her family. However, the included spouse or included domestic
6 partner shall be at least fifty years old and have been married to and
7 living with their (~~husband or wife~~) spouse, or in a domestic
8 partnership and living with their domestic partner, for three years
9 prior to the date of their application. The included spouse or
10 included domestic partner shall not have been married since the death
11 of his or her (~~husband or wife~~) spouse or domestic partner to a
12 person who is not a resident of one of this state's state veterans'
13 homes or entitled to admission to one of this state's state veterans'
14 homes; and

15 (3) All applicants for admission to a state veterans' home shall
16 apply for all federal and state benefits for which they may be
17 eligible, including medical assistance under chapter 74.09 RCW.

18 **Sec. 504.** RCW 72.36.040 and 1977 ex.s. c 186 s 2 are each amended
19 to read as follows:

20 There is hereby established what shall be known as the "Colony of
21 the State Soldiers' Home." All of the following persons who reside
22 within the limits of Orting school district and have been actual bona
23 fide residents of this state at the time of their application and who
24 have personal property of less than one thousand five hundred dollars
25 and/or a monthly income insufficient to meet their needs outside of
26 residence in such colony and soldiers' home as determined by standards
27 of the department of veterans' affairs, may be admitted to membership
28 in said colony under such rules and regulations as may be adopted by
29 the department.

30 (1) All honorably discharged veterans who have served in the armed
31 forces of the United States during wartime, members of the state
32 militia disabled while in the line of duty, and their respective
33 spouses or domestic partners with whom they have lived for three years
34 prior to application for membership in said colony. Also, the spouse
35 or domestic partner of any such veteran or disabled member of the state
36 militia is eligible for membership in said colony, if such spouse or
37 such domestic partner is the (~~widow or widower~~) surviving spouse or

1 surviving domestic partner of a veteran who was a member of a soldiers'
2 home or colony in this state or entitled to admission thereto at the
3 time of death: PROVIDED, That such veterans and members of the state
4 militia shall, while they are members of said colony, be living with
5 their said spouses or said domestic partners.

6 (2) The spouses or domestic partners of all veterans who were
7 members of a soldiers' home or colony in this state or entitled to
8 admission thereto at the time of death, and the spouses or domestic
9 partners of all veterans who would have been entitled to admission to
10 a soldiers' home or colony in this state at the time of death but for
11 the fact that they were not indigent and unable to support themselves
12 and families, which spouses or domestic partners have since the death
13 of their said (~~((husbands or wives))~~) spouses or domestic partners become
14 indigent and unable to earn a support for themselves: PROVIDED, That
15 such spouses or such domestic partners are not less than fifty years of
16 age and have not been married or in a domestic partnership since the
17 decease of their said (~~((husbands or wives))~~) spouses or said domestic
18 partners to any person not a member of a soldiers' home or colony in
19 this state or entitled to admission thereto. Any resident of said
20 colony may be admitted to the state soldiers' home for temporary care
21 when requiring treatment.

22 **Sec. 505.** RCW 72.36.050 and 1979 c 65 s 1 are each amended to read
23 as follows:

24 The members of the colony established in RCW 72.36.040 as now or
25 hereafter amended shall, to all intents and purposes, be members of the
26 state soldiers' home and subject to all the rules and regulations
27 thereof, except the requirements of fatigue duty, and each member
28 shall, in accordance with rules and regulations adopted by the
29 director, be supplied with medical attendance and supplies from the
30 home dispensary, rations, and clothing for a member and his or her
31 spouse or domestic partner, or for a spouse or domestic partner
32 admitted under RCW 72.36.040 as now or hereafter amended. The value of
33 the supplies, rations, and clothing furnished such persons shall be
34 determined by the director of veterans affairs and be included in the
35 biennial budget.

1 family allowances and other benefits, they shall be provided without
2 charge by county clerks and county auditors upon request of the person
3 in the service or his dependents.

4 **Sec. 509.** RCW 73.36.140 and 1951 c 53 s 14 are each amended to
5 read as follows:

6 A guardian shall not apply any portion of the income or the estate
7 for the support or maintenance of any person including the ward, the
8 spouse or the domestic partner, and the minor children of the ward,
9 except upon petition to and prior order of the court after a hearing.
10 A signed duplicate or certified copy of said petition shall be
11 furnished the proper office of the veterans administration and notice
12 of hearing thereon shall be given said office as provided in the case
13 of hearing on a guardian's account or other pleading.

14 **Sec. 510.** RCW 73.04.010 and 1973 1st ex.s. c 154 s 106 are each
15 amended to read as follows:

16 No judge, or clerk of court, county clerk, county auditor, or any
17 other county officer, shall be allowed to charge any honorably
18 discharged soldier or seaman, or the spouse or domestic partner,
19 orphan, or legal representative thereof, any fee for administering any
20 oath, or giving any official certificate for the procuring of any
21 pension, bounty, or back pay, nor for administering any oath or oaths
22 and giving the certificate required upon any voucher for collection of
23 periodical dues from the pension agent, nor any fee for services
24 rendered in perfecting any voucher.

25 **Sec. 511.** RCW 73.04.115 and 2005 c 216 s 5 are each amended to
26 read as follows:

27 (1) The department shall issue to the surviving spouse or surviving
28 domestic partner of any deceased former prisoner of war described in
29 RCW 73.04.110(~~((+2))~~) (1)(b), one set of regular or special license
30 plates for use on a personal passenger vehicle registered to that
31 person.

32 (2) The plates shall be issued without the payment of any license
33 fees or excise tax on the vehicle. Whenever any person who has been
34 issued license plates under this section applies to the department for
35 transfer of the plates to a subsequently acquired motor vehicle, a

1 transfer fee of five dollars shall be charged in addition to all other
2 appropriate fees. If the surviving spouse remarries or the surviving
3 domestic partner registers in a new domestic partnership, he or she
4 shall return the special plates to the department within fifteen days
5 and apply for regular license plates.

6 (3) For purposes of this section, the term "special license plates"
7 does not include any plate from the armed forces license plate
8 collection established in RCW 46.16.30920.

9 **PART VI - COMMUNITY PROPERTY AND OTHER PROPERTY RIGHTS**

10 NEW SECTION. **Sec. 601.** A new section is added to chapter 26.60
11 RCW to read as follows:

12 Any community property rights of domestic partners established by
13 this act shall apply from the date of the initial registration of the
14 domestic partnership or the effective date of this section, whichever
15 is later.

16 **Sec. 602.** RCW 26.16.010 and Code 1881 s 2408 are each amended to
17 read as follows:

18 Property and pecuniary rights owned by ~~((the husband))~~ a spouse
19 before marriage and that acquired by him or her afterwards by gift,
20 bequest, devise ~~((or))~~, descent, or inheritance, with the rents, issues
21 and profits thereof, shall not be subject to the debts or contracts of
22 his ~~((wife))~~ or her spouse, and he or she may manage, lease, sell,
23 convey, encumber or devise by will such property without ~~((the wife))~~
24 his or her spouse joining in such management, alienation or
25 encumbrance, as fully, and to the same ~~((effect))~~ extent or in the same
26 manner as though he or she were unmarried.

27 **Sec. 603.** RCW 26.16.020 and Code 1881 s 2400 are each amended to
28 read as follows:

29 ~~((The))~~ Property and pecuniary rights ~~((of every married woman at~~
30 ~~the time of her marriage))~~ owned by a person in a state registered
31 domestic partnership before registration of the domestic partnership or
32 afterwards acquired by gift, bequest, devise, descent, or inheritance,
33 with the rents, issues and profits thereof, shall not be subject to the
34 debts or contracts of ~~((her husband))~~ his or her domestic partner, and

1 he or she may manage, lease, sell, convey, encumber or devise by will
2 such property without his or her domestic partner joining in such
3 management, alienation, or encumbrance, as fully, to the same extent
4 and in the same manner (~~that her husband can, property belonging to~~
5 ~~him~~) as though he or she were not in a state registered domestic
6 partnership.

7 **Sec. 604.** RCW 26.16.030 and 1981 c 304 s 1 are each amended to
8 read as follows:

9 Property not acquired or owned, as prescribed in RCW 26.16.010 and
10 26.16.020, acquired after marriage or after registration of a state
11 registered domestic partnership by either domestic partner or either
12 husband or wife or both, is community property. Either spouse or
13 either domestic partner, acting alone, may manage and control community
14 property, with a like power of disposition as the acting spouse or
15 domestic partner has over his or her separate property, except:

16 (1) Neither (~~spouse~~) person shall devise or bequeath by will more
17 than one-half of the community property.

18 (2) Neither (~~spouse~~) person shall give community property without
19 the express or implied consent of the other.

20 (3) Neither (~~spouse~~) person shall sell, convey, or encumber the
21 community real property without the other spouse or other domestic
22 partner joining in the execution of the deed or other instrument by
23 which the real estate is sold, conveyed, or encumbered, and such deed
24 or other instrument must be acknowledged by both spouses or both
25 domestic partners.

26 (4) Neither (~~spouse~~) person shall purchase or contract to
27 purchase community real property without the other spouse or other
28 domestic partner joining in the transaction of purchase or in the
29 execution of the contract to purchase.

30 (5) Neither (~~spouse~~) person shall create a security interest
31 other than a purchase money security interest as defined in RCW
32 62A.9-107 in, or sell, community household goods, furnishings, or
33 appliances, or a community mobile home unless the other spouse or other
34 domestic partner joins in executing the security agreement or bill of
35 sale, if any.

36 (6) Neither (~~spouse~~) person shall acquire, purchase, sell,
37 convey, or encumber the assets, including real estate, or the good will

1 of a business where both spouses or both domestic partners participate
2 in its management without the consent of the other: PROVIDED, That
3 where only one spouse or one domestic partner participates in such
4 management the participating spouse or participating domestic partner
5 may, in the ordinary course of such business, acquire, purchase, sell,
6 convey or encumber the assets, including real estate, or the good will
7 of the business without the consent of the nonparticipating spouse or
8 nonparticipating domestic partner.

9 **Sec. 605.** RCW 26.16.050 and 1888 c 27 s 1 are each amended to read
10 as follows:

11 A (~~husband~~) spouse or domestic partner may give, grant, sell or
12 convey directly to (~~his wife, and a wife may give, grant, sell or~~
13 ~~convey directly to her husband~~) the other spouse or other domestic
14 partner his or her community right, title, interest or estate in all or
15 any portion of their community real property: And every deed made from
16 (~~husband to wife, or from wife to husband~~) one spouse to the other or
17 one domestic partner to the other, shall operate to divest the real
18 estate therein recited from any or every claim or demand as community
19 property and shall vest the same in the grantee as separate
20 property(~~{. The}~~). The grantor in all such deeds, or the party
21 releasing such community interest or estate shall sign, seal, execute
22 and acknowledge the deed as a single person without the joinder therein
23 of the married party or party to a state registered domestic
24 partnership therein named as grantee: PROVIDED, HOWEVER, That the
25 conveyances or transfers hereby authorized shall not affect any
26 existing equity in favor of creditors of the grantor at the time of
27 such transfer, gift or conveyance. AND PROVIDED FURTHER, That any
28 deeds of gift conveyances or releases of community estate by or between
29 (~~husband and wife~~) spouses or between domestic partners heretofore
30 made but in which (~~the husband and wife~~) both spouses or both
31 domestic partners have not joined as grantors, said deeds(~~{,}~~), where
32 made in good faith and without intent to hinder, delay or defraud
33 creditors(~~{,}~~), shall be and the same are hereby fully legalized as
34 valid and binding.

35 **Sec. 606.** RCW 26.16.060 and Code 1881 s 2403 are each amended to
36 read as follows:

1 A (~~husband or wife~~) spouse or domestic partner may constitute the
2 other his or her attorney-in-fact to manage, control or dispose of his
3 or her property with the same power of revocation or substitution as
4 could be exercised were they unmarried persons or were they not in a
5 state registered domestic partnership.

6 **Sec. 607.** RCW 26.16.070 and 1888 c 27 s 2 are each amended to read
7 as follows:

8 A (~~husband or wife~~) spouse or domestic partner may make and
9 execute powers of attorney for the sale, conveyance, transfer or
10 encumbrance of his or her separate estate both real and personal,
11 without the other spouse or other domestic partner joining in the
12 execution thereof. Such power of attorney shall be acknowledged and
13 certified in the manner provided by law for the conveyance of real
14 estate. Nor shall anything herein contained be so construed as to
15 prevent either (~~husband or wife~~) spouse or either domestic partner
16 from appointing the other his or her attorney-in-fact for the purposes
17 provided in this section.

18 **Sec. 608.** RCW 26.16.080 and 1888 c 27 s 3 are each amended to read
19 as follows:

20 Any conveyance, transfer, deed, lease or other encumbrances
21 executed under and by virtue of such power of attorney shall be
22 executed, acknowledged and certified in the same manner as if the
23 person making such power of attorney had been unmarried or not in a
24 state registered domestic partnership.

25 **Sec. 609.** RCW 26.16.090 and 1888 c 27 s 4 are each amended to read
26 as follows:

27 A (~~husband~~) spouse or domestic partner may make and execute a
28 letter of attorney to (~~the wife, or the wife may make and execute a~~
29 ~~letter of attorney to the husband~~) his or her spouse or domestic
30 partner authorizing the sale or other disposition of his or her
31 community interest or estate in the community property and as such
32 attorney-in-fact to sign the name of such (~~husband or wife~~) spouse or
33 such domestic partner to any deed, conveyance, mortgage, lease or other
34 encumbrance or to any instrument necessary to be executed by which the
35 property conveyed or transferred shall be released from any claim as

1 community property. And either (~~said husband or said wife~~) spouse or
2 either domestic partner may make and execute a letter of attorney to
3 any third person to join with the other in the conveyance of any
4 interest either in separate real estate of either, or in the community
5 estate held by such (~~husband or wife~~) spouse or such domestic partner
6 in any real property. And both (~~husband and wife~~) spouses or both
7 domestic partners owning community property may jointly execute a power
8 of attorney to a third person authorizing the sale, encumbrance or
9 other disposition of community real property, and so execute the
10 necessary conveyance or transfer of said real estate.

11 **Sec. 610.** RCW 26.16.095 and 1891 c 151 s 1 are each amended to
12 read as follows:

13 Whenever any person, married, in a state registered domestic
14 partnership, or single, having in his or her name the legal title of
15 record to any real estate, shall sell or dispose of the same to an
16 actual bona fide purchaser, a deed of such real estate from the person
17 holding such legal record title to such actual bona fide purchaser
18 shall be sufficient to convey to, and vest in, such purchaser the full
19 legal and equitable title to such real estate free and clear of any and
20 all claims of any and all persons whatsoever, not appearing of record
21 in the auditor's office of the county in which such real estate is
22 situated.

23 **Sec. 611.** RCW 26.16.100 and 1891 c 151 s 2 are each amended to
24 read as follows:

25 A (~~husband or wife~~) spouse or domestic partner having an interest
26 in real estate, by virtue of the marriage relation or state registered
27 domestic partnership, the legal title of record to which real estate is
28 or shall be held by the other, may protect such interest from sale or
29 disposition by the (~~husband or wife~~) other spouse or other domestic
30 partner, as the case may be, in whose name the legal title is held, by
31 causing to be filed and recorded in the auditor's office of the county
32 in which such real estate is situated an instrument in writing setting
33 forth that the person filing such instrument is the (~~husband or wife~~)
34 spouse or domestic partner, as the case may be, of the person holding
35 the legal title to the real estate in question, describing such real
36 estate and the claimant's interest therein; and when thus presented for

1 record such instrument shall be filed and recorded by the auditor of
2 the county in which such real estate is situated, in the same manner
3 and with like effect as regards notice to all the world, as deeds of
4 real estate are filed and recorded. And if either (~~husband or wife~~)
5 spouse or either domestic partner fails to cause such an instrument to
6 be filed in the auditor's office in the county in which real estate is
7 situated, the legal title to which is held by the other, within a
8 period of ninety days from the date when such legal title has been made
9 a matter of record, any actual bona fide purchaser of such real estate
10 from the person in whose name the legal title stands of record,
11 receiving a deed of such real estate from the person thus holding the
12 legal title, shall be deemed and held to have received the full legal
13 and equitable title to such real estate free and clear of all claim of
14 the other spouse or other domestic partner.

15 **Sec. 612.** RCW 26.16.120 and 1998 c 292 s 505 are each amended to
16 read as follows:

17 Nothing contained in any of the provisions of this chapter or in
18 any law of this state, shall prevent (~~the husband and wife~~) both
19 spouses or both domestic partners from jointly entering into any
20 agreement concerning the status or disposition of the whole or any
21 portion of the community property, then owned by them or afterwards to
22 be acquired, to take effect upon the death of either. But such
23 agreement may be made at any time by (~~the husband and wife~~) both
24 spouses or both domestic partners by the execution of an instrument in
25 writing under their hands and seals, and to be witnessed, acknowledged
26 and certified in the same manner as deeds to real estate are required
27 to be, under the laws of the state, and the same may at any time
28 thereafter be altered or amended in the same manner. Such agreement
29 shall not derogate from the right of creditors; nor be construed to
30 curtail the powers of the superior court to set aside or cancel such
31 agreement for fraud or under some other recognized head of equity
32 jurisdiction, at the suit of either party; nor prevent the application
33 of laws governing the community property and inheritance rights of
34 slayers under chapter 11.84 RCW.

35 **Sec. 613.** RCW 26.16.140 and 1972 ex.s. c 108 s 5 are each amended
36 to read as follows:

1 When (~~a husband and wife~~) spouses or domestic partners are living
2 separate and apart, their respective earnings and accumulations shall
3 be the separate property of each. The earnings and accumulations of
4 minor children shall be the separate property of the spouse or domestic
5 partner who has their custody or, if no custody award has been made,
6 then the separate property of the spouse or domestic partner with whom
7 said children are living.

8 **Sec. 614.** RCW 26.16.150 and Code 1881 s 2396 are each amended to
9 read as follows:

10 Every married person or domestic partner shall hereafter have the
11 same right and liberty to acquire, hold, enjoy and dispose of every
12 species of property, and to sue and be sued, as if he or she were
13 unmarried or were not in a state registered domestic partnership.

14 **Sec. 615.** RCW 26.16.180 and Code 1881 s 2401 are each amended to
15 read as follows:

16 Should either (~~husband or wife~~) spouse or either domestic partner
17 obtain possession or control of property belonging to the other, either
18 before or after marriage or before or after entering into a state
19 registered domestic partnership, the owner of the property may maintain
20 an action therefor, or for any right growing out of the same, in the
21 same manner and to the same extent as if they were unmarried or were
22 not in a state registered domestic partnership.

23 **Sec. 616.** RCW 26.16.190 and 1972 ex.s. c 108 s 6 are each amended
24 to read as follows:

25 For all injuries committed by a married person or domestic partner,
26 there shall be no recovery against the separate property of the other
27 spouse or other domestic partner except in cases where there would be
28 joint responsibility if the marriage or the state registered domestic
29 partnership did not exist.

30 **Sec. 617.** RCW 26.16.200 and 1983 1st ex.s. c 41 s 2 are each
31 amended to read as follows:

32 Neither (~~husband or wife~~) person in a marriage or state
33 registered domestic partnership is liable for the debts or liabilities
34 of the other incurred before marriage or state registered domestic

1 partnership, nor for the separate debts of each other, nor is the rent
2 or income of the separate property of either liable for the separate
3 debts of the other: PROVIDED, That the earnings and accumulations of
4 the (~~husband~~) spouse or domestic partner shall be available to the
5 legal process of creditors for the satisfaction of debts incurred by
6 (~~him~~) such spouse or domestic partner prior to the marriage(~~, and~~
7 ~~the earnings and accumulations of the wife shall be available to the~~
8 ~~legal process of creditors for the satisfaction of debts incurred by~~
9 ~~her prior to marriage~~) or the state registered domestic partnership.
10 For the purpose of this section, neither (~~the husband nor the wife~~)
11 person in the marriage or the state registered domestic partnership
12 shall be construed to have any interest in the earnings of the other:
13 PROVIDED FURTHER, That no separate debt, except a child support or
14 maintenance obligation, may be the basis of a claim against the
15 earnings and accumulations of either (~~a husband or wife~~) spouse or
16 either domestic partner unless the same is reduced to judgment within
17 three years of the marriage or the state registered domestic
18 partnership of the parties. The obligation of a parent or stepparent
19 to support a child may be collected out of the parent's or stepparent's
20 separate property, the parent's or stepparent's earnings and
21 accumulations, and the parent's or stepparent's share of community
22 personal and real property. Funds in a community bank account which
23 can be identified as the earnings of the nonobligated spouse or
24 nonobligated domestic partner are exempt from satisfaction of the child
25 support obligation of the debtor spouse or debtor domestic partner.

26 **Sec. 618.** RCW 26.16.205 and 1990 1st ex.s. c 2 s 13 are each
27 amended to read as follows:

28 The expenses of the family and the education of the children,
29 including stepchildren, are chargeable upon the property of both
30 (~~husband and wife~~) spouses or both domestic partners, or either of
31 them, and they may be sued jointly or separately. When a petition for
32 dissolution of marriage or state registered domestic partnership or a
33 petition for legal separation is filed, the court may, upon motion of
34 the stepparent, terminate the obligation to support the stepchildren.
35 The obligation to support stepchildren shall cease upon the entry of a
36 decree of dissolution, decree of legal separation, or death.

1 **Sec. 619.** RCW 26.16.210 and Code 1881 s 2397 are each amended to
2 read as follows:

3 In every case, where any question arises as to the good faith of
4 any transaction between (~~husband and wife~~) spouses or between
5 domestic partners, whether a transaction between them directly or by
6 intervention of third person or persons, the burden of proof shall be
7 upon the party asserting the good faith.

8 **Sec. 620.** RCW 26.16.220 and 1988 c 34 s 1 are each amended to read
9 as follows:

10 (1) Unless the context clearly requires otherwise, as used in RCW
11 26.16.220 through 26.16.250 "quasi-community property" means all
12 personal property wherever situated and all real property described in
13 subsection (2) of this section that is not community property and that
14 was heretofore or hereafter acquired:

15 (a) By the decedent while domiciled elsewhere and that would have
16 been the community property of the decedent and of the decedent's
17 surviving spouse or surviving domestic partner had the decedent been
18 domiciled in this state at the time of its acquisition; or

19 (b) In derivation or in exchange for real or personal property,
20 wherever situated, that would have been the community property of the
21 decedent and (~~the~~) his or her surviving spouse or surviving domestic
22 partner if the decedent had been domiciled in this state at the time
23 the original property was acquired.

24 (2) For purposes of this section, real property includes:

25 (a) Real property situated in this state;

26 (b) Real property situated outside this state if the law of the
27 state where the real property is located provides that the law of the
28 decedent's domicile at death shall govern the rights of the decedent's
29 surviving spouse or surviving domestic partner to a share of such
30 property; and

31 (c) Leasehold interests in real property described in (a) or (b) of
32 this subsection.

33 (3) For purposes of this section, all legal presumptions and
34 principles applicable to the proper characterization of property as
35 community property under the laws and decisions of this state shall
36 apply in determining whether property would have been the community

1 property of the decedent and (~~the~~) his or her surviving spouse or
2 surviving domestic partner under the provisions of subsection (1) of
3 this section.

4 **Sec. 621.** RCW 26.16.230 and 1988 c 34 s 2 are each amended to read
5 as follows:

6 Upon the death of any person domiciled in this state, one-half of
7 any quasi-community property shall belong to the surviving spouse or
8 surviving domestic partner and the other one-half of such property
9 shall be subject to disposition at death by the decedent, and in the
10 absence thereof, shall descend in the manner provided for community
11 property under chapter 11.04 RCW.

12 **Sec. 622.** RCW 26.16.240 and 1988 c 34 s 3 are each amended to read
13 as follows:

14 (1) If a decedent domiciled in this state on the date of his or her
15 death made a lifetime transfer of a property interest that is quasi-
16 community property to a person other than the surviving spouse or
17 surviving domestic partner within three years of death, then within the
18 time for filing claims against the estate as provided by RCW 11.40.010,
19 the surviving spouse or surviving domestic partner may require the
20 transferee to restore to the decedent's estate one-half of such
21 property interest, if the transferee retains the property interest,
22 and, if not, one-half of its proceeds, or, if none, one-half of its
23 value at the time of transfer, if:

24 (a) The decedent retained, at the time of death, the possession or
25 enjoyment of or the right to income from the property interest;

26 (b) The decedent retained, at the time of death, a power, either
27 alone or in conjunction with any other person, to revoke or to consume,
28 invade or dispose of the property interest for the decedent's own
29 benefit; or

30 (c) The decedent held the property interest at the time of death
31 with another with the right of survivorship.

32 (2) Notwithstanding subsection (1) of this section, no such
33 property interest, proceeds, or value may be required to be restored to
34 the decedent's estate if:

35 (a) Such property interest was transferred for adequate
36 consideration;

1 (b) Such property interest was transferred with the consent of the
2 surviving spouse or surviving domestic partner; or

3 (c) The transferee purchased such property interest in property
4 from the decedent while believing in good faith that the property or
5 property interest was the separate property of the decedent and did not
6 constitute quasi-community property.

7 (3) All property interests, proceeds, or value restored to the
8 decedent's estate under this section shall belong to the surviving
9 spouse or surviving domestic partner pursuant to RCW 26.16.230 as
10 though the transfer had never been made.

11 (4) The surviving spouse or surviving domestic partner may waive
12 any right granted hereunder by written instrument filed in the probate
13 proceedings. If the surviving spouse or surviving domestic partner
14 acts as personal representative of the decedent's estate and causes the
15 estate to be closed before the time for exercising any right granted by
16 this section expires, such closure shall act as a waiver by the
17 surviving spouse or surviving domestic partner of any and all rights
18 granted by this section.

19 **Sec. 623.** RCW 26.16.250 and 1988 c 34 s 4 are each amended to read
20 as follows:

21 The characterization of property as quasi-community property under
22 this chapter shall be effective solely for the purpose of determining
23 the disposition of such property at the time of a death, and such
24 characterization shall not affect the rights of the decedent's
25 creditors. For all other purposes property characterized as quasi-
26 community property under this chapter shall be characterized without
27 regard to the provisions of this chapter. (~~A husband and wife~~) Both
28 spouses or both domestic partners may waive, modify, or relinquish any
29 quasi-community property right granted or created by this chapter by
30 signed written agreement, wherever executed, before or after June 11,
31 1986, including without limitation, community property agreements,
32 prenuptial and postnuptial agreements, or agreements as to status of
33 property.

34 **Sec. 624.** RCW 11.84.030 and 1965 c 145 s 11.84.030 are each
35 amended to read as follows:

36 The slayer shall be deemed to have predeceased the decedent as to

1 property which would have passed from the decedent or his estate to the
2 slayer under the statutes of descent and distribution or have been
3 acquired by statutory right as surviving spouse or surviving domestic
4 partner or under any agreement made with the decedent under the
5 provisions of RCW 26.16.120 as it now exists or is hereafter amended.

6 **Sec. 625.** RCW 64.28.010 and 1993 c 19 s 1 are each amended to read
7 as follows:

8 Whereas joint tenancy with right of survivorship permits property
9 to pass to the survivor without the cost or delay of probate
10 proceedings, there shall be a form of co-ownership of property, real
11 and personal, known as joint tenancy. A joint tenancy shall have the
12 incidents of survivorship and severability as at common law, including
13 the unilateral right of each tenant to sever the joint tenancy. Joint
14 tenancy shall be created only by written instrument, which instrument
15 shall expressly declare the interest created to be a joint tenancy. It
16 may be created by a single agreement, transfer, deed, will, or other
17 instrument of conveyance, or by agreement, transfer, deed or other
18 instrument from a sole owner to himself or herself and others, or from
19 tenants in common or joint tenants to themselves or some of them, or to
20 themselves or any of them and others, or from ((~~husband and wife~~)) both
21 spouses or both domestic partners, when holding title as community
22 property, or otherwise, to themselves or to themselves and others, or
23 to one of them and to another or others, or when granted or devised to
24 executors or trustees as joint tenants: PROVIDED, That such transfer
25 shall not derogate from the rights of creditors.

26 **Sec. 626.** RCW 64.28.020 and 1988 c 29 s 10 are each amended to
27 read as follows:

28 (1) Every interest created in favor of two or more persons in their
29 own right is an interest in common, unless acquired by them in
30 partnership, for partnership purposes, or unless declared in its
31 creation to be a joint tenancy, as provided in RCW 64.28.010, or unless
32 acquired by executors or trustees.

33 (2) Interests in common held in the names of ((~~a husband and wife~~))
34 both spouses or both domestic partners, whether or not in conjunction
35 with others, are presumed to be their community property.

1 (3) Subsection (2) of this section applies as of June 9, 1988, to
2 all existing or subsequently created interests in common.

3 **Sec. 627.** RCW 64.28.030 and 1961 c 2 s 3 are each amended to read
4 as follows:

5 The provisions of this chapter shall not restrict the creation of
6 a joint tenancy in a bank deposit or in other choses in action as
7 heretofore or hereafter provided by law, nor restrict the power of
8 (~~husband and wife~~) both spouses or both domestic partners to make
9 agreements as provided in RCW 26.16.120.

10 **Sec. 628.** RCW 64.28.040 and 1993 c 19 s 2 are each amended to read
11 as follows:

12 (1) Joint tenancy interests held in the names of (~~a husband and~~
13 ~~wife~~) both spouses or both domestic partners, whether or not in
14 conjunction with others, are presumed to be their community property,
15 the same as other property held in the name of both (~~husband and~~
16 ~~wife~~) spouses or both domestic partners. Any such interest passes to
17 the survivor of the (~~husband and wife~~) spouse or survivor of the
18 domestic partner as provided for property held in joint tenancy, but in
19 all other respects the interest is treated as community property.

20 (2) Either (~~husband or wife~~) person in a marriage or either
21 person in a state registered domestic partnership, or both, may sever
22 a joint tenancy. When a joint tenancy is severed, the property, or
23 proceeds of the property, shall be presumed to be their community
24 property, whether it is held in the name of (~~the husband or wife~~)
25 either spouse, or both, or in the name of either domestic partner, or
26 both.

27 (3) This section applies as of January 1, 1985, to all existing or
28 subsequently created joint tenancies.

29 **Sec. 629.** RCW 9.46.231 and 1997 c 128 s 1 are each amended to read
30 as follows:

31 (1) The following are subject to seizure and forfeiture and no
32 property right exists in them:

- 33 (a) All gambling devices as defined in this chapter;
- 34 (b) All furnishings, fixtures, equipment, and stock, including
35 without limitation furnishings and fixtures adaptable to nongambling

1 uses and equipment and stock for printing, recording, computing,
2 transporting, or safekeeping, used in connection with professional
3 gambling or maintaining a gambling premises;

4 (c) All conveyances, including aircraft, vehicles, or vessels, that
5 are used, or intended for use, in any manner to facilitate the sale,
6 delivery, receipt, or operation of any gambling device, or the
7 promotion or operation of a professional gambling activity, except
8 that:

9 (i) A conveyance used by any person as a common carrier in the
10 transaction of business as a common carrier is not subject to
11 forfeiture under this section unless it appears that the owner or other
12 person in charge of the conveyance is a consenting party or privy to a
13 violation of this chapter;

14 (ii) A conveyance is not subject to forfeiture under this section
15 by reason of any act or omission established by the owner thereof to
16 have been committed or omitted without the owner's knowledge or
17 consent;

18 (iii) A forfeiture of a conveyance encumbered by a bona fide
19 security interest is subject to the interest of the secured party if
20 the secured party neither had knowledge of nor consented to the act or
21 omission; and

22 (iv) If the owner of a conveyance has been arrested under this
23 chapter the conveyance in which the person is arrested may not be
24 subject to forfeiture unless it is seized or process is issued for its
25 seizure within ten days of the owner's arrest;

26 (d) All books, records, and research products and materials,
27 including formulas, microfilm, tapes, and electronic data that are
28 used, or intended for use, in violation of this chapter;

29 (e) All moneys, negotiable instruments, securities, or other
30 tangible or intangible property of value at stake or displayed in or in
31 connection with professional gambling activity or furnished or intended
32 to be furnished by any person to facilitate the promotion or operation
33 of a professional gambling activity;

34 (f) All tangible or intangible personal property, proceeds, or
35 assets acquired in whole or in part with proceeds traceable to
36 professional gambling activity and all moneys, negotiable instruments,
37 and securities used or intended to be used to facilitate any violation
38 of this chapter. A forfeiture of money, negotiable instruments,

1 securities, or other tangible or intangible property encumbered by a
2 bona fide security interest is subject to the interest of the secured
3 party if, at the time the security interest was created, the secured
4 party neither had knowledge of nor consented to the act or omission.
5 Personal property may not be forfeited under this subsection (1)(f), to
6 the extent of the interest of an owner, by reason of any act or
7 omission that that owner establishes was committed or omitted without
8 the owner's knowledge or consent; and

9 (g) All real property, including any right, title, and interest in
10 the whole of any lot or tract of land, and any appurtenances or
11 improvements that:

12 (i) Have been used with the knowledge of the owner for the
13 manufacturing, processing, delivery, importing, or exporting of any
14 illegal gambling equipment, or operation of a professional gambling
15 activity that would constitute a felony violation of this chapter; or

16 (ii) Have been acquired in whole or in part with proceeds traceable
17 to a professional gambling activity, if the activity is not less than
18 a class C felony.

19 Real property forfeited under this chapter that is encumbered by a
20 bona fide security interest remains subject to the interest of the
21 secured party if the secured party, at the time the security interest
22 was created, neither had knowledge of nor consented to the act or
23 omission. Property may not be forfeited under this subsection, to the
24 extent of the interest of an owner, by reason of any act or omission
25 committed or omitted without the owner's knowledge or consent.

26 (2)(a) A law enforcement officer of this state may seize real or
27 personal property subject to forfeiture under this chapter upon process
28 issued by any superior court having jurisdiction over the property.
29 Seizure of real property includes the filing of a lis pendens by the
30 seizing agency. Real property seized under this section may not be
31 transferred or otherwise conveyed until ninety days after seizure or
32 until a judgment of forfeiture is entered, whichever is later, but real
33 property seized under this section may be transferred or conveyed to
34 any person or entity who acquires title by foreclosure or deed in lieu
35 of foreclosure of a bona fide security interest.

36 (b) Seizure of personal property without process may be made if:

37 (i) The seizure is incident to an arrest or a search under a search
38 warrant or an inspection under an administrative inspection warrant;

1 (ii) The property subject to seizure has been the subject of a
2 prior judgment in favor of the state in a criminal injunction or
3 forfeiture proceeding based upon this chapter;

4 (iii) A law enforcement officer has probable cause to believe that
5 the property is directly or indirectly dangerous to health or safety;
6 or

7 (iv) The law enforcement officer has probable cause to believe that
8 the property was used or is intended to be used in violation of this
9 chapter.

10 (3) In the event of seizure under subsection (2) of this section,
11 proceedings for forfeiture are deemed commenced by the seizure. The
12 law enforcement agency under whose authority the seizure was made shall
13 cause notice to be served within fifteen days following the seizure on
14 the owner of the property seized and the person in charge thereof and
15 any person having any known right or interest therein, including any
16 community property interest, of the seizure and intended forfeiture of
17 the seized property. Service of notice of seizure of real property
18 must be made according to the rules of civil procedure. However, the
19 state may not obtain a default judgment with respect to real property
20 against a party who is served by substituted service absent an
21 affidavit stating that a good faith effort has been made to ascertain
22 if the defaulted party is incarcerated within the state, and that there
23 is no present basis to believe that the party is incarcerated within
24 the state. Notice of seizure in the case of property subject to a
25 security interest that has been perfected by filing a financing
26 statement in accordance with chapter ((62A-9)) 62A.9A RCW, or a
27 certificate of title, must be made by service upon the secured party or
28 the secured party's assignee at the address shown on the financing
29 statement or the certificate of title. The notice of seizure in other
30 cases may be served by any method authorized by law or court rule
31 including but not limited to service by certified mail with return
32 receipt requested. Service by mail is deemed complete upon mailing
33 within the fifteen-day period following the seizure.

34 (4) If no person notifies the seizing law enforcement agency in
35 writing of the person's claim of ownership or right to possession of
36 items specified in subsection (1) of this section within forty-five
37 days of the seizure in the case of personal property and ninety days in
38 the case of real property, the item seized is deemed forfeited. The

1 community property interest in real property of a person whose spouse
2 or domestic partner committed a violation giving rise to seizure of the
3 real property may not be forfeited if the person did not participate in
4 the violation.

5 (5) If any person notifies the seizing law enforcement agency in
6 writing of the person's claim of ownership or right to possession of
7 items specified in subsection (1) of this section within forty-five
8 days of the seizure in the case of personal property and ninety days in
9 the case of real property, the person or persons must be afforded a
10 reasonable opportunity to be heard as to the claim or right. The
11 hearing must be before the chief law enforcement officer of the seizing
12 agency or the chief law enforcement officer's designee, except if the
13 seizing agency is a state agency as defined in RCW 34.12.020(4), the
14 hearing must be before the chief law enforcement officer of the seizing
15 agency or an administrative law judge appointed under chapter 34.12
16 RCW, except that any person asserting a claim or right may remove the
17 matter to a court of competent jurisdiction. Removal of any matter
18 involving personal property may only be accomplished according to the
19 rules of civil procedure. The person seeking removal of the matter
20 must serve process against the state, county, political subdivision, or
21 municipality that operates the seizing agency, and any other party of
22 interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-
23 five days after the person seeking removal has notified the seizing law
24 enforcement agency of the person's claim of ownership or right to
25 possession. The court to which the matter is to be removed must be the
26 district court if the aggregate value of personal property is within
27 the jurisdictional limit set forth in RCW 3.66.020. A hearing before
28 the seizing agency and any appeal therefrom must be under Title 34 RCW.
29 In a court hearing between two or more claimants to the article or
30 articles involved, the prevailing party is entitled to a judgment for
31 costs and reasonable attorneys' fees. In cases involving personal
32 property, the burden of producing evidence is upon the person claiming
33 to be the lawful owner or the person claiming to have the lawful right
34 to possession of the property. In cases involving property seized
35 under subsection (1)(a) of this section, the only issues to be
36 determined by the tribunal are whether the item seized is a gambling
37 device, and whether the device is an antique device as defined by RCW
38 9.46.235. In cases involving real property, the burden of producing

1 evidence is upon the law enforcement agency. The burden of proof that
2 the seized real property is subject to forfeiture is upon the law
3 enforcement agency. The seizing law enforcement agency shall promptly
4 return the article or articles to the claimant upon a final
5 determination by the administrative law judge or court that the
6 claimant is the present lawful owner or is lawfully entitled to
7 possession thereof of items specified in subsection (1) of this
8 section.

9 (6) If property is forfeited under this chapter the seizing law
10 enforcement agency may:

11 (a) Retain it for official use or upon application by any law
12 enforcement agency of this state release the property to the agency for
13 training or use in enforcing this chapter;

14 (b) Sell that which is not required to be destroyed by law and
15 which is not harmful to the public; or

16 (c) Destroy any articles that may not be lawfully possessed within
17 the state of Washington, or that have a fair market value of less than
18 one hundred dollars.

19 (7)(a) If property is forfeited, the seizing agency shall keep a
20 record indicating the identity of the prior owner, if known, a
21 description of the property, the disposition of the property, the value
22 of the property at the time of seizure, and the amount of proceeds
23 realized from disposition of the property. The net proceeds of
24 forfeited property is the value of the forfeitable interest in the
25 property after deducting the cost of satisfying any bona fide security
26 interest to which the property is subject at the time of seizure, and
27 in the case of sold property, after deducting the cost of sale,
28 including reasonable fees or commissions paid to independent selling
29 agents.

30 (b) Each seizing agency shall retain records of forfeited property
31 for at least seven years.

32 (8) The seizing law enforcement agency shall retain forfeited
33 property and net proceeds exclusively for the expansion and improvement
34 of gambling-related law enforcement activity. Money retained under
35 this section may not be used to supplant preexisting funding sources.

36 (9) Gambling devices that are possessed, transferred, sold, or
37 offered for sale in violation of this chapter are contraband and must
38 be seized and summarily forfeited to the state. Gambling equipment

1 that is seized or comes into the possession of a law enforcement
2 agency, the owners of which are unknown, are contraband and must be
3 summarily forfeited to the state.

4 (10) Upon the entry of an order of forfeiture of real property, the
5 court shall forward a copy of the order to the assessor of the county
6 in which the property is located. The superior court shall enter
7 orders for the forfeiture of real property, subject to court rules.
8 The seizing agency shall file such an order in the county auditor's
9 records in the county in which the real property is located.

10 (11)(a) A landlord may assert a claim against proceeds from the
11 sale of assets seized and forfeited under subsection (6)(b) of this
12 section, only if:

13 (i) A law enforcement officer, while acting in his or her official
14 capacity, directly caused damage to the complaining landlord's property
15 while executing a search of a tenant's residence; and

16 (ii) The landlord has applied any funds remaining in the tenant's
17 deposit, to which the landlord has a right under chapter 59.18 RCW, to
18 cover the damage directly caused by a law enforcement officer before
19 asserting a claim under this section.

20 (A) Only if the funds applied under (a)(ii) of this subsection are
21 insufficient to satisfy the damage directly caused by a law enforcement
22 officer, may the landlord seek compensation for the damage by filing a
23 claim against the governmental entity under whose authority the law
24 enforcement agency operates within thirty days after the search; and

25 (B) Only if the governmental entity denies or fails to respond to
26 the landlord's claim within sixty days of the date of filing, may the
27 landlord collect damages under this subsection by filing within thirty
28 days of denial or the expiration of the sixty-day period, whichever
29 occurs first, a claim with the seizing law enforcement agency. The
30 seizing law enforcement agency shall notify the landlord of the status
31 of the claim by the end of the thirty-day period. This section does
32 not require the claim to be paid by the end of the sixty-day or thirty-
33 day period.

34 (b) For any claim filed under (a)(ii) of this subsection, the law
35 enforcement agency shall pay the claim unless the agency provides
36 substantial proof that the landlord either:

37 (i) Knew or consented to actions of the tenant in violation of this
38 chapter; or

1 (ii) Failed to respond to a notification of the illegal activity,
2 provided by a law enforcement agency within seven days of receipt of
3 notification of the illegal activity.

4 (12) The landlord's claim for damages under subsection (11) of this
5 section may not include a claim for loss of business and is limited to:

6 (a) Damage to tangible property and clean-up costs;

7 (b) The lesser of the cost of repair or fair market value of the
8 damage directly caused by a law enforcement officer;

9 (c) The proceeds from the sale of the specific tenant's property
10 seized and forfeited under subsection (6)(b) of this section; and

11 (d) The proceeds available after the seizing law enforcement agency
12 satisfies any bona fide security interest in the tenant's property and
13 costs related to sale of the tenant's property as provided by
14 subsection (7)(a) of this section.

15 (13) Subsections (11) and (12) of this section do not limit any
16 other rights a landlord may have against a tenant to collect for
17 damages. However, if a law enforcement agency satisfies a landlord's
18 claim under subsection (11) of this section, the rights the landlord
19 has against the tenant for damages directly caused by a law enforcement
20 officer under the terms of the landlord and tenant's contract are
21 subrogated to the law enforcement agency.

22 (14) Liability is not imposed by this section upon any authorized
23 state, county, or municipal officer, including a commission special
24 agent, in the lawful performance of his or her duties.

25 **Sec. 630.** RCW 9A.83.030 and 2001 c 168 s 2 are each amended to
26 read as follows:

27 (1) Proceeds traceable to or derived from specified unlawful
28 activity or a violation of RCW 9A.83.020 are subject to seizure and
29 forfeiture. The attorney general or county prosecuting attorney may
30 file a civil action for the forfeiture of proceeds. Unless otherwise
31 provided for under this section, no property rights exist in these
32 proceeds. All right, title, and interest in the proceeds shall vest in
33 the governmental entity of which the seizing law enforcement agency is
34 a part upon commission of the act or omission giving rise to forfeiture
35 under this section.

36 (2) Real or personal property subject to forfeiture under this
37 chapter may be seized by any law enforcement officer of this state upon

1 process issued by a superior court that has jurisdiction over the
2 property. Any agency seizing real property shall file a lis pendens
3 concerning the property. Real property seized under this section shall
4 not be transferred or otherwise conveyed until ninety days after
5 seizure or until a judgment of forfeiture is entered, whichever is
6 later. Real property seized under this section may be transferred or
7 conveyed to any person or entity who acquires title by foreclosure or
8 deed in lieu of foreclosure of a security interest. Seizure of
9 personal property without process may be made if:

10 (a) The seizure is incident to an arrest or a search under a search
11 warrant or an inspection under an administrative inspection warrant
12 issued pursuant to RCW 69.50.502; or

13 (b) The property subject to seizure has been the subject of a prior
14 judgment in favor of the state in a criminal injunction or forfeiture
15 proceeding based upon this chapter.

16 (3) A seizure under subsection (2) of this section commences
17 proceedings for forfeiture. The law enforcement agency under whose
18 authority the seizure was made shall cause notice of the seizure and
19 intended forfeiture of the seized proceeds to be served within fifteen
20 days after the seizure on the owner of the property seized and the
21 person in charge thereof and any person who has a known right or
22 interest therein, including a community property interest. Service of
23 notice of seizure of real property shall be made according to the rules
24 of civil procedure. However, the state may not obtain a default
25 judgment with respect to real property against a party who is served by
26 substituted service absent an affidavit stating that a good faith
27 effort has been made to ascertain if the defaulted party is
28 incarcerated within the state, and that there is no present basis to
29 believe that the party is incarcerated within the state. The notice of
30 seizure in other cases may be served by any method authorized by law or
31 court rule including but not limited to service by certified mail with
32 return receipt requested. Service by mail is complete upon mailing
33 within the fifteen-day period after the seizure.

34 (4) If no person notifies the seizing law enforcement agency in
35 writing of the person's claim of ownership or right to possession of
36 the property within forty-five days of the seizure in the case of
37 personal property and ninety days in the case of real property, the
38 property seized shall be deemed forfeited. The community property

1 interest in real property of a person whose spouse or domestic partner
2 committed a violation giving rise to seizure of the real property may
3 not be forfeited if the person did not participate in the violation.

4 (5) If a person notifies the seizing law enforcement agency in
5 writing of the person's claim of ownership or right to possession of
6 property within forty-five days of the seizure in the case of personal
7 property and ninety days in the case of real property, the person or
8 persons shall be afforded a reasonable opportunity to be heard as to
9 the claim or right. The provisions of RCW 69.50.505(~~(+e+)~~) (5) shall
10 apply to any such hearing. The seizing law enforcement agency shall
11 promptly return property to the claimant upon the direction of the
12 administrative law judge or court.

13 (6) Disposition of forfeited property shall be made in the manner
14 provided for in RCW 69.50.505 (~~((h) through (j) and (n))~~) (8) through
15 (10) and (14).

16 **Sec. 631.** RCW 69.50.505 and 2003 c 53 s 348 are each amended to
17 read as follows:

18 (1) The following are subject to seizure and forfeiture and no
19 property right exists in them:

20 (a) All controlled substances which have been manufactured,
21 distributed, dispensed, acquired, or possessed in violation of this
22 chapter or chapter 69.41 or 69.52 RCW, and all hazardous chemicals, as
23 defined in RCW 64.44.010, used or intended to be used in the
24 manufacture of controlled substances;

25 (b) All raw materials, products, and equipment of any kind which
26 are used, or intended for use, in manufacturing, compounding,
27 processing, delivering, importing, or exporting any controlled
28 substance in violation of this chapter or chapter 69.41 or 69.52 RCW;

29 (c) All property which is used, or intended for use, as a container
30 for property described in (a) or (b) of this subsection;

31 (d) All conveyances, including aircraft, vehicles, or vessels,
32 which are used, or intended for use, in any manner to facilitate the
33 sale, delivery, or receipt of property described in (a) or (b) of this
34 subsection, except that:

35 (i) No conveyance used by any person as a common carrier in the
36 transaction of business as a common carrier is subject to forfeiture

1 under this section unless it appears that the owner or other person in
2 charge of the conveyance is a consenting party or privy to a violation
3 of this chapter or chapter 69.41 or 69.52 RCW;

4 (ii) No conveyance is subject to forfeiture under this section by
5 reason of any act or omission established by the owner thereof to have
6 been committed or omitted without the owner's knowledge or consent;

7 (iii) No conveyance is subject to forfeiture under this section if
8 used in the receipt of only an amount of marijuana for which possession
9 constitutes a misdemeanor under RCW 69.50.4014;

10 (iv) A forfeiture of a conveyance encumbered by a bona fide
11 security interest is subject to the interest of the secured party if
12 the secured party neither had knowledge of nor consented to the act or
13 omission; and

14 (v) When the owner of a conveyance has been arrested under this
15 chapter or chapter 69.41 or 69.52 RCW the conveyance in which the
16 person is arrested may not be subject to forfeiture unless it is seized
17 or process is issued for its seizure within ten days of the owner's
18 arrest;

19 (e) All books, records, and research products and materials,
20 including formulas, microfilm, tapes, and data which are used, or
21 intended for use, in violation of this chapter or chapter 69.41 or
22 69.52 RCW;

23 (f) All drug paraphernalia;

24 (g) All moneys, negotiable instruments, securities, or other
25 tangible or intangible property of value furnished or intended to be
26 furnished by any person in exchange for a controlled substance in
27 violation of this chapter or chapter 69.41 or 69.52 RCW, all tangible
28 or intangible personal property, proceeds, or assets acquired in whole
29 or in part with proceeds traceable to an exchange or series of
30 exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW,
31 and all moneys, negotiable instruments, and securities used or intended
32 to be used to facilitate any violation of this chapter or chapter 69.41
33 or 69.52 RCW. A forfeiture of money, negotiable instruments,
34 securities, or other tangible or intangible property encumbered by a
35 bona fide security interest is subject to the interest of the secured
36 party if, at the time the security interest was created, the secured
37 party neither had knowledge of nor consented to the act or omission.
38 No personal property may be forfeited under this subsection (1)(g), to

1 the extent of the interest of an owner, by reason of any act or
2 omission which that owner establishes was committed or omitted without
3 the owner's knowledge or consent; and

4 (h) All real property, including any right, title, and interest in
5 the whole of any lot or tract of land, and any appurtenances or
6 improvements which are being used with the knowledge of the owner for
7 the manufacturing, compounding, processing, delivery, importing, or
8 exporting of any controlled substance, or which have been acquired in
9 whole or in part with proceeds traceable to an exchange or series of
10 exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW,
11 if such activity is not less than a class C felony and a substantial
12 nexus exists between the commercial production or sale of the
13 controlled substance and the real property. However:

14 (i) No property may be forfeited pursuant to this subsection
15 (1)(h), to the extent of the interest of an owner, by reason of any act
16 or omission committed or omitted without the owner's knowledge or
17 consent;

18 (ii) The bona fide gift of a controlled substance, legend drug, or
19 imitation controlled substance shall not result in the forfeiture of
20 real property;

21 (iii) The possession of marijuana shall not result in the
22 forfeiture of real property unless the marijuana is possessed for
23 commercial purposes, the amount possessed is five or more plants or one
24 pound or more of marijuana, and a substantial nexus exists between the
25 possession of marijuana and the real property. In such a case, the
26 intent of the offender shall be determined by the preponderance of the
27 evidence, including the offender's prior criminal history, the amount
28 of marijuana possessed by the offender, the sophistication of the
29 activity or equipment used by the offender, and other evidence which
30 demonstrates the offender's intent to engage in commercial activity;

31 (iv) The unlawful sale of marijuana or a legend drug shall not
32 result in the forfeiture of real property unless the sale was forty
33 grams or more in the case of marijuana or one hundred dollars or more
34 in the case of a legend drug, and a substantial nexus exists between
35 the unlawful sale and the real property; and

36 (v) A forfeiture of real property encumbered by a bona fide
37 security interest is subject to the interest of the secured party if

1 the secured party, at the time the security interest was created,
2 neither had knowledge of nor consented to the act or omission.

3 (2) Real or personal property subject to forfeiture under this
4 chapter may be seized by any board inspector or law enforcement officer
5 of this state upon process issued by any superior court having
6 jurisdiction over the property. Seizure of real property shall include
7 the filing of a lis pendens by the seizing agency. Real property
8 seized under this section shall not be transferred or otherwise
9 conveyed until ninety days after seizure or until a judgment of
10 forfeiture is entered, whichever is later: PROVIDED, That real
11 property seized under this section may be transferred or conveyed to
12 any person or entity who acquires title by foreclosure or deed in lieu
13 of foreclosure of a security interest. Seizure of personal property
14 without process may be made if:

15 (a) The seizure is incident to an arrest or a search under a search
16 warrant or an inspection under an administrative inspection warrant;

17 (b) The property subject to seizure has been the subject of a prior
18 judgment in favor of the state in a criminal injunction or forfeiture
19 proceeding based upon this chapter;

20 (c) A board inspector or law enforcement officer has probable cause
21 to believe that the property is directly or indirectly dangerous to
22 health or safety; or

23 (d) The board inspector or law enforcement officer has probable
24 cause to believe that the property was used or is intended to be used
25 in violation of this chapter.

26 (3) In the event of seizure pursuant to subsection (2) of this
27 section, proceedings for forfeiture shall be deemed commenced by the
28 seizure. The law enforcement agency under whose authority the seizure
29 was made shall cause notice to be served within fifteen days following
30 the seizure on the owner of the property seized and the person in
31 charge thereof and any person having any known right or interest
32 therein, including any community property interest, of the seizure and
33 intended forfeiture of the seized property. Service of notice of
34 seizure of real property shall be made according to the rules of civil
35 procedure. However, the state may not obtain a default judgment with
36 respect to real property against a party who is served by substituted
37 service absent an affidavit stating that a good faith effort has been
38 made to ascertain if the defaulted party is incarcerated within the

1 state, and that there is no present basis to believe that the party is
2 incarcerated within the state. Notice of seizure in the case of
3 property subject to a security interest that has been perfected by
4 filing a financing statement in accordance with chapter 62A.9A RCW, or
5 a certificate of title, shall be made by service upon the secured party
6 or the secured party's assignee at the address shown on the financing
7 statement or the certificate of title. The notice of seizure in other
8 cases may be served by any method authorized by law or court rule
9 including but not limited to service by certified mail with return
10 receipt requested. Service by mail shall be deemed complete upon
11 mailing within the fifteen day period following the seizure.

12 (4) If no person notifies the seizing law enforcement agency in
13 writing of the person's claim of ownership or right to possession of
14 items specified in subsection (1)(d), (g), or (h) of this section
15 within forty-five days of the seizure in the case of personal property
16 and ninety days in the case of real property, the item seized shall be
17 deemed forfeited. The community property interest in real property of
18 a person whose spouse or domestic partner committed a violation giving
19 rise to seizure of the real property may not be forfeited if the person
20 did not participate in the violation.

21 (5) If any person notifies the seizing law enforcement agency in
22 writing of the person's claim of ownership or right to possession of
23 items specified in subsection (1)(b), (c), (d), (e), (f), (g), or (h)
24 of this section within forty-five days of the seizure in the case of
25 personal property and ninety days in the case of real property, the
26 person or persons shall be afforded a reasonable opportunity to be
27 heard as to the claim or right. The hearing shall be before the chief
28 law enforcement officer of the seizing agency or the chief law
29 enforcement officer's designee, except where the seizing agency is a
30 state agency as defined in RCW 34.12.020(4), the hearing shall be
31 before the chief law enforcement officer of the seizing agency or an
32 administrative law judge appointed under chapter 34.12 RCW, except that
33 any person asserting a claim or right may remove the matter to a court
34 of competent jurisdiction. Removal of any matter involving personal
35 property may only be accomplished according to the rules of civil
36 procedure. The person seeking removal of the matter must serve process
37 against the state, county, political subdivision, or municipality that
38 operates the seizing agency, and any other party of interest, in

1 accordance with RCW 4.28.080 or 4.92.020, within forty-five days after
2 the person seeking removal has notified the seizing law enforcement
3 agency of the person's claim of ownership or right to possession. The
4 court to which the matter is to be removed shall be the district court
5 when the aggregate value of personal property is within the
6 jurisdictional limit set forth in RCW 3.66.020. A hearing before the
7 seizing agency and any appeal therefrom shall be under Title 34 RCW.
8 In all cases, the burden of proof is upon the law enforcement agency to
9 establish, by a preponderance of the evidence, that the property is
10 subject to forfeiture.

11 The seizing law enforcement agency shall promptly return the
12 article or articles to the claimant upon a determination by the
13 administrative law judge or court that the claimant is the present
14 lawful owner or is lawfully entitled to possession thereof of items
15 specified in subsection (1)(b), (c), (d), (e), (f), (g), or (h) of this
16 section.

17 (6) In any proceeding to forfeit property under this title, where
18 the claimant substantially prevails, the claimant is entitled to
19 reasonable attorneys' fees reasonably incurred by the claimant. In
20 addition, in a court hearing between two or more claimants to the
21 article or articles involved, the prevailing party is entitled to a
22 judgment for costs and reasonable attorneys' fees.

23 (7) When property is forfeited under this chapter the board or
24 seizing law enforcement agency may:

25 (a) Retain it for official use or upon application by any law
26 enforcement agency of this state release such property to such agency
27 for the exclusive use of enforcing the provisions of this chapter;

28 (b) Sell that which is not required to be destroyed by law and
29 which is not harmful to the public;

30 (c) Request the appropriate sheriff or director of public safety to
31 take custody of the property and remove it for disposition in
32 accordance with law; or

33 (d) Forward it to the drug enforcement administration for
34 disposition.

35 (8)(a) When property is forfeited, the seizing agency shall keep a
36 record indicating the identity of the prior owner, if known, a
37 description of the property, the disposition of the property, the value

1 of the property at the time of seizure, and the amount of proceeds
2 realized from disposition of the property.

3 (b) Each seizing agency shall retain records of forfeited property
4 for at least seven years.

5 (c) Each seizing agency shall file a report including a copy of the
6 records of forfeited property with the state treasurer each calendar
7 quarter.

8 (d) The quarterly report need not include a record of forfeited
9 property that is still being held for use as evidence during the
10 investigation or prosecution of a case or during the appeal from a
11 conviction.

12 (9)(a) By January 31st of each year, each seizing agency shall
13 remit to the state treasurer an amount equal to ten percent of the net
14 proceeds of any property forfeited during the preceding calendar year.
15 Money remitted shall be deposited in the violence reduction and drug
16 enforcement account under RCW 69.50.520.

17 (b) The net proceeds of forfeited property is the value of the
18 forfeitable interest in the property after deducting the cost of
19 satisfying any bona fide security interest to which the property is
20 subject at the time of seizure; and in the case of sold property, after
21 deducting the cost of sale, including reasonable fees or commissions
22 paid to independent selling agents, and the cost of any valid
23 landlord's claim for damages under subsection (15) of this section.

24 (c) The value of sold forfeited property is the sale price. The
25 value of retained forfeited property is the fair market value of the
26 property at the time of seizure, determined when possible by reference
27 to an applicable commonly used index, such as the index used by the
28 department of licensing for valuation of motor vehicles. A seizing
29 agency may use, but need not use, an independent qualified appraiser to
30 determine the value of retained property. If an appraiser is used, the
31 value of the property appraised is net of the cost of the appraisal.
32 The value of destroyed property and retained firearms or illegal
33 property is zero.

34 (10) Forfeited property and net proceeds not required to be paid to
35 the state treasurer shall be retained by the seizing law enforcement
36 agency exclusively for the expansion and improvement of controlled
37 substances related law enforcement activity. Money retained under this
38 section may not be used to supplant preexisting funding sources.

1 (11) Controlled substances listed in Schedule I, II, III, IV, and
2 V that are possessed, transferred, sold, or offered for sale in
3 violation of this chapter are contraband and shall be seized and
4 summarily forfeited to the state. Controlled substances listed in
5 Schedule I, II, III, IV, and V, which are seized or come into the
6 possession of the board, the owners of which are unknown, are
7 contraband and shall be summarily forfeited to the board.

8 (12) Species of plants from which controlled substances in
9 Schedules I and II may be derived which have been planted or cultivated
10 in violation of this chapter, or of which the owners or cultivators are
11 unknown, or which are wild growths, may be seized and summarily
12 forfeited to the board.

13 (13) The failure, upon demand by a board inspector or law
14 enforcement officer, of the person in occupancy or in control of land
15 or premises upon which the species of plants are growing or being
16 stored to produce an appropriate registration or proof that he or she
17 is the holder thereof constitutes authority for the seizure and
18 forfeiture of the plants.

19 (14) Upon the entry of an order of forfeiture of real property, the
20 court shall forward a copy of the order to the assessor of the county
21 in which the property is located. Orders for the forfeiture of real
22 property shall be entered by the superior court, subject to court
23 rules. Such an order shall be filed by the seizing agency in the
24 county auditor's records in the county in which the real property is
25 located.

26 (15) A landlord may assert a claim against proceeds from the sale
27 of assets seized and forfeited under subsection (7)(b) of this section,
28 only if:

29 (a) A law enforcement officer, while acting in his or her official
30 capacity, directly caused damage to the complaining landlord's property
31 while executing a search of a tenant's residence; and

32 (b) The landlord has applied any funds remaining in the tenant's
33 deposit, to which the landlord has a right under chapter 59.18 RCW, to
34 cover the damage directly caused by a law enforcement officer prior to
35 asserting a claim under the provisions of this section;

36 (i) Only if the funds applied under (b) of this subsection are
37 insufficient to satisfy the damage directly caused by a law enforcement

1 officer, may the landlord seek compensation for the damage by filing a
2 claim against the governmental entity under whose authority the law
3 enforcement agency operates within thirty days after the search;

4 (ii) Only if the governmental entity denies or fails to respond to
5 the landlord's claim within sixty days of the date of filing, may the
6 landlord collect damages under this subsection by filing within thirty
7 days of denial or the expiration of the sixty-day period, whichever
8 occurs first, a claim with the seizing law enforcement agency. The
9 seizing law enforcement agency must notify the landlord of the status
10 of the claim by the end of the thirty-day period. Nothing in this
11 section requires the claim to be paid by the end of the sixty-day or
12 thirty-day period.

13 (c) For any claim filed under (b) of this subsection, the law
14 enforcement agency shall pay the claim unless the agency provides
15 substantial proof that the landlord either:

16 (i) Knew or consented to actions of the tenant in violation of this
17 chapter or chapter 69.41 or 69.52 RCW; or

18 (ii) Failed to respond to a notification of the illegal activity,
19 provided by a law enforcement agency under RCW 59.18.075, within seven
20 days of receipt of notification of the illegal activity.

21 (16) The landlord's claim for damages under subsection (15) of this
22 section may not include a claim for loss of business and is limited to:

23 (a) Damage to tangible property and clean-up costs;

24 (b) The lesser of the cost of repair or fair market value of the
25 damage directly caused by a law enforcement officer;

26 (c) The proceeds from the sale of the specific tenant's property
27 seized and forfeited under subsection (7)(b) of this section; and

28 (d) The proceeds available after the seizing law enforcement agency
29 satisfies any bona fide security interest in the tenant's property and
30 costs related to sale of the tenant's property as provided by
31 subsection (9)(b) of this section.

32 (17) Subsections (15) and (16) of this section do not limit any
33 other rights a landlord may have against a tenant to collect for
34 damages. However, if a law enforcement agency satisfies a landlord's
35 claim under subsection (15) of this section, the rights the landlord
36 has against the tenant for damages directly caused by a law enforcement
37 officer under the terms of the landlord and tenant's contract are
38 subrogated to the law enforcement agency.

1 **Sec. 632.** RCW 64.06.010 and 2007 c 107 s 3 are each amended to
2 read as follows:

3 This chapter does not apply to the following transfers of
4 residential real property:

5 (1) A foreclosure or deed-in-lieu of foreclosure;

6 (2) A gift or other transfer to a parent, spouse, domestic partner,
7 or child of a transferor or child of any parent (~~(or)~~) spouse, or
8 domestic partner of a transferor;

9 (3) A transfer between spouses or between domestic partners in
10 connection with a marital dissolution or dissolution of a state
11 registered domestic partnership;

12 (4) A transfer where a buyer had an ownership interest in the
13 property within two years of the date of the transfer including, but
14 not limited to, an ownership interest as a partner in a partnership, a
15 limited partner in a limited partnership, a shareholder in a
16 corporation, a leasehold interest, or transfers to and from a
17 facilitator pursuant to a tax deferred exchange;

18 (5) A transfer of an interest that is less than fee simple, except
19 that the transfer of a vendee's interest under a real estate contract
20 is subject to the requirements of this chapter;

21 (6) A transfer made by the personal representative of the estate of
22 the decedent or by a trustee in bankruptcy; and

23 (7) A transfer in which the buyer has expressly waived the receipt
24 of the seller disclosure statement. However, if the answer to any of
25 the questions in the section entitled "Environmental" would be "yes,"
26 the buyer may not waive the receipt of the "Environmental" section of
27 the seller disclosure statement.

28 **Sec. 633.** RCW 6.13.020 and 1987 c 442 s 202 are each amended to
29 read as follows:

30 If the owner is married or in a state registered domestic
31 partnership, the homestead may consist of the community or jointly
32 owned property of the spouses or the domestic partners or the separate
33 property of either spouse or either domestic partner: PROVIDED, That
34 the same premises may not be claimed separately by the (~~husband and~~
35 ~~wife~~) spouses or domestic partners with the effect of increasing the
36 net value of the homestead available to the marital community or state
37 registered domestic partnership beyond the amount specified in RCW

1 6.13.030 as now or hereafter amended. When the owner is not married or
2 not in a state registered domestic partnership, the homestead may
3 consist of any of his or her property.

4 **Sec. 634.** RCW 6.13.060 and 1987 c 442 s 206 are each amended to
5 read as follows:

6 The homestead of a (~~married person~~) spouse or domestic partner
7 cannot be conveyed or encumbered unless the instrument by which it is
8 conveyed or encumbered is executed and acknowledged by both (~~husband~~
9 ~~and wife~~) spouses or both domestic partners, except that (~~a husband~~
10 ~~or a wife~~) either spouse or both or either domestic partner or both
11 jointly may make and execute powers of attorney for the conveyance or
12 encumbrance of the homestead.

13 **Sec. 635.** RCW 6.13.080 and 2007 c 429 s 2 are each amended to read
14 as follows:

15 The homestead exemption is not available against an execution or
16 forced sale in satisfaction of judgments obtained:

17 (1) On debts secured by mechanic's, laborer's, construction,
18 maritime, automobile repair, materialmen's or vendor's liens arising
19 out of and against the particular property claimed as a homestead;

20 (2) On debts secured (a) by security agreements describing as
21 collateral the property that is claimed as a homestead or (b) by
22 mortgages or deeds of trust on the premises that have been executed and
23 acknowledged by (~~the husband and wife~~) both spouses or both domestic
24 partners or by any (~~unmarried~~) claimant not married or in a state
25 registered domestic partnership;

26 (3) On one spouse's or one domestic partner's or the community's
27 debts existing at the time of that spouse's or that domestic partner's
28 bankruptcy filing where (a) bankruptcy is filed by both spouses or both
29 domestic partners within a six-month period, other than in a joint case
30 or a case in which their assets are jointly administered, and (b) the
31 other spouse or other domestic partner exempts property from property
32 of the estate under the bankruptcy exemption provisions of 11 U.S.C.
33 Sec. 522(d);

34 (4) On debts arising from a lawful court order or decree or
35 administrative order establishing a child support obligation or
36 obligation to pay (~~spousal~~) maintenance;

1 (5) On debts owing to the state of Washington for recovery of
2 medical assistance correctly paid on behalf of an individual consistent
3 with 42 U.S.C. Sec. 1396p;

4 (6) On debts secured by a condominium's or homeowner association's
5 lien. In order for an association to be exempt under this provision,
6 the association must have provided a homeowner with notice that
7 nonpayment of the association's assessment may result in foreclosure of
8 the association lien and that the homestead protection under this
9 chapter shall not apply. An association has complied with this notice
10 requirement by mailing the notice, by first-class mail, to the address
11 of the owner's lot or unit. The notice required in this subsection
12 shall be given within thirty days from the date the association learns
13 of a new owner, but in all cases the notice must be given prior to the
14 initiation of a foreclosure. The phrase "learns of a new owner" in
15 this subsection means actual knowledge of the identity of a homeowner
16 acquiring title after June 9, 1988, and does not require that an
17 association affirmatively ascertain the identity of a homeowner.
18 Failure to give the notice specified in this subsection affects an
19 association's lien only for debts accrued up to the time an association
20 complies with the notice provisions under this subsection; or

21 (7) On debts owed for taxes collected under chapters 82.08, 82.12,
22 and 82.14 RCW but not remitted to the department of revenue.

23 **Sec. 636.** RCW 6.13.180 and 1987 c 442 s 218 are each amended to
24 read as follows:

25 The money paid to the owner is entitled to the same protection
26 against legal process and the voluntary disposition of the ((~~husband or~~
27 ~~wife~~)) other spouse or other domestic partner which the law gives to
28 the homestead.

29 **Sec. 637.** RCW 6.13.210 and 1987 c 442 s 221 are each amended to
30 read as follows:

31 In case of a homestead, if either ((~~the husband or wife~~)) spouse or
32 either domestic partner shall be or become incompetent or disabled to
33 such a degree that he or she is unable to assist in the management of
34 his or her interest in the ((~~marital~~)) property of the marriage or
35 domestic partnership and no guardian has been appointed, upon
36 application of the other spouse or other domestic partner to the

1 superior court of the county in which the homestead is situated, and
2 upon due proof of such incompetency or disability in the severity
3 required above, the court may make an order permitting the ((~~husband or~~
4 ~~wife~~)) spouse or the domestic partner applying to the court to sell and
5 convey or mortgage such homestead.

6 **Sec. 638.** RCW 6.13.220 and 1987 c 442 s 222 are each amended to
7 read as follows:

8 Notice of the application for such order shall be given by
9 publication of the same in a newspaper published in the county in which
10 such homestead is situated, if there be a newspaper published therein,
11 once each week for three successive weeks prior to the hearing of such
12 application, and a copy of such notice shall be served upon the alleged
13 incompetent ((~~husband or wife~~)) spouse or domestic partner personally,
14 and upon the nearest relative of such incompetent or disabled ((~~husband~~
15 ~~or wife~~)) spouse or domestic partner other than the applicant, resident
16 in this state, at least three weeks prior to such application being
17 heard, and in case there be no such relative known to the applicant, a
18 copy of such notice shall be served upon the prosecuting attorney of
19 the county in which such homestead is situated; and it is hereby made
20 the duty of such prosecuting attorney, upon being served with a copy of
21 such notice, to appear in court and see that such application is made
22 in good faith, and that the proceedings thereon are fairly conducted.

23 **Sec. 639.** RCW 6.13.230 and 1987 c 442 s 223 are each amended to
24 read as follows:

25 Thirty days before the hearing of any application under the
26 provisions of this chapter, the applicant shall present and file in the
27 court in which such application is to be heard a petition for the order
28 mentioned, subscribed and sworn to by the applicant, setting forth the
29 name and age of the alleged incompetent or disabled ((~~husband or wife~~))
30 spouse or domestic partner; a description of the premises constituting
31 the homestead; the value of the same; the county in which it is
32 situated; such facts necessary to show that the nonpetitioning
33 ((~~husband or wife~~)) spouse or domestic partner is incompetent or
34 disabled to the degree required under RCW 6.13.210; and such additional
35 facts relating to the circumstances and necessities of the applicant

1 and his or her family as he or she may rely upon in support of the
2 petition.

3 **Sec. 640.** RCW 26.16.125 and Code 1881 s 2399 are each amended to
4 read as follows:

5 Henceforth the rights and responsibilities of the parents in the
6 absence of misconduct shall be equal, and (~~the mother~~) one parent
7 shall be as fully entitled to the custody, control and earnings of the
8 children as the (~~father~~) other parent, and in case of (~~the~~
9 ~~father's~~) one parent's death, the (~~mother~~) other parent shall come
10 into (~~as~~) full and complete control of the children and their estate
11 (~~as the father does in case of the mother's death~~).

12 **Sec. 641.** RCW 60.04.211 and 1991 c 281 s 21 are each amended to
13 read as follows:

14 The claim of lien, when filed as required by this chapter, shall be
15 notice to the (~~husband or wife~~) spouse or the domestic partner of the
16 person who appears of record to be the owner of the property sought to
17 be charged with the lien, and shall subject all the community interest
18 of both (~~husband and wife~~) spouses or both domestic partners to the
19 lien.

20 **PART VII - TAXES**

21 **Sec. 701.** RCW 82.45.010 and 2000 2nd sp.s. c 4 s 26 are each
22 amended to read as follows:

23 (1) As used in this chapter, the term "sale" shall have its
24 ordinary meaning and shall include any conveyance, grant, assignment,
25 quitclaim, or transfer of the ownership of or title to real property,
26 including standing timber, or any estate or interest therein for a
27 valuable consideration, and any contract for such conveyance, grant,
28 assignment, quitclaim, or transfer, and any lease with an option to
29 purchase real property, including standing timber, or any estate or
30 interest therein or other contract under which possession of the
31 property is given to the purchaser, or any other person at the
32 purchaser's direction, and title to the property is retained by the
33 vendor as security for the payment of the purchase price. The term

1 also includes the grant, assignment, quitclaim, sale, or transfer of
2 improvements constructed upon leased land.

3 (2) The term "sale" also includes the transfer or acquisition
4 within any twelve-month period of a controlling interest in any entity
5 with an interest in real property located in this state for a valuable
6 consideration. For purposes of this subsection, all acquisitions of
7 persons acting in concert shall be aggregated for purposes of
8 determining whether a transfer or acquisition of a controlling interest
9 has taken place. The department of revenue shall adopt standards by
10 rule to determine when persons are acting in concert. In adopting a
11 rule for this purpose, the department shall consider the following:

12 (a) Persons shall be treated as acting in concert when they have a
13 relationship with each other such that one person influences or
14 controls the actions of another through common ownership; and

15 (b) When persons are not commonly owned or controlled, they shall
16 be treated as acting in concert only when the unity with which the
17 purchasers have negotiated and will consummate the transfer of
18 ownership interests supports a finding that they are acting as a single
19 entity. If the acquisitions are completely independent, with each
20 purchaser buying without regard to the identity of the other
21 purchasers, then the acquisitions shall be considered separate
22 acquisitions.

23 (3) The term "sale" shall not include:

24 (a) A transfer by gift, devise, or inheritance.

25 (b) A transfer of any leasehold interest other than of the type
26 mentioned above.

27 (c) A cancellation or forfeiture of a vendee's interest in a
28 contract for the sale of real property, whether or not such contract
29 contains a forfeiture clause, or deed in lieu of foreclosure of a
30 mortgage.

31 (d) The partition of property by tenants in common by agreement or
32 as the result of a court decree.

33 (e) The assignment of property or interest in property from one
34 spouse or one domestic partner to the other spouse or other domestic
35 partner in accordance with the terms of a decree of (~~divorce~~)
36 dissolution of marriage or state registered domestic partnership or in
37 fulfillment of a property settlement agreement.

1 (f) The assignment or other transfer of a vendor's interest in a
2 contract for the sale of real property, even though accompanied by a
3 conveyance of the vendor's interest in the real property involved.

4 (g) Transfers by appropriation or decree in condemnation
5 proceedings brought by the United States, the state or any political
6 subdivision thereof, or a municipal corporation.

7 (h) A mortgage or other transfer of an interest in real property
8 merely to secure a debt, or the assignment thereof.

9 (i) Any transfer or conveyance made pursuant to a deed of trust or
10 an order of sale by the court in any mortgage, deed of trust, or lien
11 foreclosure proceeding or upon execution of a judgment, or deed in lieu
12 of foreclosure to satisfy a mortgage or deed of trust.

13 (j) A conveyance to the federal housing administration or veterans
14 administration by an authorized mortgagee made pursuant to a contract
15 of insurance or guaranty with the federal housing administration or
16 veterans administration.

17 (k) A transfer in compliance with the terms of any lease or
18 contract upon which the tax as imposed by this chapter has been paid or
19 where the lease or contract was entered into prior to the date this tax
20 was first imposed.

21 (l) The sale of any grave or lot in an established cemetery.

22 (m) A sale by the United States, this state or any political
23 subdivision thereof, or a municipal corporation of this state.

24 (n) A sale to a regional transit authority or public corporation
25 under RCW 81.112.320 under a sale/leaseback agreement under RCW
26 81.112.300.

27 (o) A transfer of real property, however effected, if it consists
28 of a mere change in identity or form of ownership of an entity where
29 there is no change in the beneficial ownership. These include
30 transfers to a corporation or partnership which is wholly owned by the
31 transferor and/or the transferor's spouse or domestic partner or
32 children of the transferor or the transferor's spouse or domestic
33 partner: PROVIDED, That if thereafter such transferee corporation or
34 partnership voluntarily transfers such real property, or such
35 transferor, spouse or domestic partner, or children of the transferor
36 or the transferor's spouse or domestic partner voluntarily transfer
37 stock in the transferee corporation or interest in the transferee
38 partnership capital, as the case may be, to other than (1) the

1 transferor and/or the transferor's spouse or domestic partner or
2 children of the transferor or the transferor's spouse or domestic
3 partner, (2) a trust having the transferor and/or the transferor's
4 spouse or domestic partner or children of the transferor or the
5 transferor's spouse or domestic partner as the only beneficiaries at
6 the time of the transfer to the trust, or (3) a corporation or
7 partnership wholly owned by the original transferor and/or the
8 transferor's spouse or domestic partner or children of the transferor
9 or the transferor's spouse or domestic partner, within three years of
10 the original transfer to which this exemption applies, and the tax on
11 the subsequent transfer has not been paid within sixty days of becoming
12 due, excise taxes shall become due and payable on the original transfer
13 as otherwise provided by law.

14 (p)(i) A transfer that for federal income tax purposes does not
15 involve the recognition of gain or loss for entity formation,
16 liquidation or dissolution, and reorganization, including but not
17 limited to nonrecognition of gain or loss because of application of
18 section 332, 337, 351, 368(a)(1), 721, or 731 of the Internal Revenue
19 Code of 1986, as amended.

20 (ii) However, the transfer described in (p)(i) of this subsection
21 cannot be preceded or followed within a twelve-month period by another
22 transfer or series of transfers, that, when combined with the otherwise
23 exempt transfer or transfers described in (p)(i) of this subsection,
24 results in the transfer of a controlling interest in the entity for
25 valuable consideration, and in which one or more persons previously
26 holding a controlling interest in the entity receive cash or property
27 in exchange for any interest the person or persons acting in concert
28 hold in the entity. This subsection (3)(p)(ii) does not apply to that
29 part of the transfer involving property received that is the real
30 property interest that the person or persons originally contributed to
31 the entity or when one or more persons who did not contribute real
32 property or belong to the entity at a time when real property was
33 purchased receive cash or personal property in exchange for that person
34 or persons' interest in the entity. The real estate excise tax under
35 this subsection (3)(p)(ii) is imposed upon the person or persons who
36 previously held a controlling interest in the entity.

1 **Sec. 702.** RCW 84.38.030 and 2006 c 62 s 3 are each amended to read
2 as follows:

3 A claimant may defer payment of special assessments and/or real
4 property taxes on up to eighty percent of the amount of the claimant's
5 equity value in the claimant's residence if the following conditions
6 are met:

7 (1) The claimant must meet all requirements for an exemption for
8 the residence under RCW 84.36.381, other than the age and income limits
9 under RCW 84.36.381.

10 (2) The claimant must be sixty years of age or older on December
11 31st of the year in which the deferral claim is filed, or must have
12 been, at the time of filing, retired from regular gainful employment by
13 reason of physical disability: PROVIDED, That any surviving spouse or
14 surviving domestic partner of a person who was receiving a deferral at
15 the time of the person's death shall qualify if the surviving spouse or
16 surviving domestic partner is fifty-seven years of age or older and
17 otherwise meets the requirements of this section.

18 (3) The claimant must have a combined disposable income, as defined
19 in RCW 84.36.383, of forty thousand dollars or less.

20 (4) The claimant must have owned, at the time of filing, the
21 residence on which the special assessment and/or real property taxes
22 have been imposed. For purposes of this subsection, a residence owned
23 by a marital community, owned by domestic partners, or owned by
24 cotenants shall be deemed to be owned by each spouse, each domestic
25 partner, or each cotenant. A claimant who has only a share ownership
26 in cooperative housing, a life estate, a lease for life, or a revocable
27 trust does not satisfy the ownership requirement.

28 (5) The claimant must have and keep in force fire and casualty
29 insurance in sufficient amount to protect the interest of the state in
30 the claimant's equity value: PROVIDED, That if the claimant fails to
31 keep fire and casualty insurance in force to the extent of the state's
32 interest in the claimant's equity value, the amount deferred shall not
33 exceed one hundred percent of the claimant's equity value in the land
34 or lot only.

35 (6) In the case of special assessment deferral, the claimant must
36 have opted for payment of such special assessments on the installment
37 method if such method was available.

1 **Sec. 703.** RCW 84.38.070 and 1975 1st ex.s. c 291 s 32 are each
2 amended to read as follows:

3 If the claimant declaring his or her intention to defer special
4 assessments or real property tax obligations under this chapter ceases
5 to reside permanently on the property for which the declaration to
6 defer is made between the date of filing the declaration and December
7 15th of that year, the deferral otherwise allowable under this chapter
8 shall not be allowed on such tax roll. However, this section shall not
9 apply where the claimant dies, leaving a spouse or domestic partner
10 surviving, who is also eligible for deferral of special assessment
11 and/or property taxes.

12 **Sec. 704.** RCW 84.38.130 and 1984 c 220 s 26 are each amended to
13 read as follows:

14 Special assessments and/or real property tax obligations deferred
15 under this chapter shall become payable together with interest as
16 provided in RCW 84.38.100:

17 (1) Upon the sale of property which has a deferred special
18 assessment and/or real property tax lien upon it.

19 (2) Upon the death of the claimant with an outstanding deferred
20 special assessment and/or real property tax lien except a surviving
21 spouse or surviving domestic partner who is qualified under this
22 chapter may elect to incur the special assessment and/or real property
23 tax lien which shall then be payable by that spouse or that domestic
24 partner as provided in this section.

25 (3) Upon the condemnation of property with a deferred special
26 assessment and/or real property tax lien upon it by a public or private
27 body exercising eminent domain power, except as otherwise provided in
28 RCW 84.60.070.

29 (4) At such time as the claimant ceases to reside permanently in
30 the residence upon which the deferral has been granted.

31 (5) Upon the failure of any condition set forth in RCW 84.38.030.

32 **Sec. 705.** RCW 84.38.150 and 1975 1st ex.s. c 291 s 40 are each
33 amended to read as follows:

34 (1) A surviving spouse or surviving domestic partner of the
35 claimant may elect to continue the property in its deferred tax status

1 if the property is the residence of the spouse or domestic partner of
2 the claimant and the spouse or domestic partner meets the requirements
3 of this chapter.

4 (2) The election under this section to continue the property in its
5 deferred status by the spouse or the domestic partner of the claimant
6 shall be filed in the same manner as an original claim for deferral is
7 filed under this chapter, not later than ninety days from the date of
8 the claimant's death. Thereupon, the property with respect to which
9 the deferral of special assessments and/or real property taxes is
10 claimed shall continue to be treated as deferred property. When the
11 property has been continued in its deferred status by the filing of the
12 spouse or the domestic partner of the claimant of an election under
13 this section, the spouse or the domestic partner of the claimant may
14 continue the property in its deferred status in subsequent years by
15 filing a claim under this chapter so long as the spouse or the domestic
16 partner meets the qualifications set out in this section.

17 **Sec. 706.** RCW 84.36.381 and 2005 c 248 s 2 are each amended to
18 read as follows:

19 A person shall be exempt from any legal obligation to pay all or a
20 portion of the amount of excess and regular real property taxes due and
21 payable in the year following the year in which a claim is filed, and
22 thereafter, in accordance with the following:

23 (1) The property taxes must have been imposed upon a residence
24 which was occupied by the person claiming the exemption as a principal
25 place of residence as of the time of filing: PROVIDED, That any person
26 who sells, transfers, or is displaced from his or her residence may
27 transfer his or her exemption status to a replacement residence, but no
28 claimant shall receive an exemption on more than one residence in any
29 year: PROVIDED FURTHER, That confinement of the person to a hospital,
30 nursing home, boarding home, or adult family home shall not disqualify
31 the claim of exemption if:

32 (a) The residence is temporarily unoccupied;

33 (b) The residence is occupied by a spouse or a domestic partner
34 and/or a person financially dependent on the claimant for support; or

35 (c) The residence is rented for the purpose of paying nursing home,
36 hospital, boarding home, or adult family home costs;

1 (2) The person claiming the exemption must have owned, at the time
2 of filing, in fee, as a life estate, or by contract purchase, the
3 residence on which the property taxes have been imposed or if the
4 person claiming the exemption lives in a cooperative housing
5 association, corporation, or partnership, such person must own a share
6 therein representing the unit or portion of the structure in which he
7 or she resides. For purposes of this subsection, a residence owned by
8 a marital community or state registered domestic partnership or owned
9 by cotenants shall be deemed to be owned by each spouse or each
10 domestic partner or each cotenant, and any lease for life shall be
11 deemed a life estate;

12 (3) The person claiming the exemption must be (a) sixty-one years
13 of age or older on December 31st of the year in which the exemption
14 claim is filed, or must have been, at the time of filing, retired from
15 regular gainful employment by reason of disability, or (b) a veteran of
16 the armed forces of the United States with one hundred percent service-
17 connected disability as provided in 42 U.S.C. Sec. 423 (d)(1)(A) as
18 amended prior to January 1, 2005. However, any surviving spouse or
19 surviving domestic partner of a person who was receiving an exemption
20 at the time of the person's death shall qualify if the surviving spouse
21 or surviving domestic partner is fifty-seven years of age or older and
22 otherwise meets the requirements of this section;

23 (4) The amount that the person shall be exempt from an obligation
24 to pay shall be calculated on the basis of combined disposable income,
25 as defined in RCW 84.36.383. If the person claiming the exemption was
26 retired for two months or more of the assessment year, the combined
27 disposable income of such person shall be calculated by multiplying the
28 average monthly combined disposable income of such person during the
29 months such person was retired by twelve. If the income of the person
30 claiming exemption is reduced for two or more months of the assessment
31 year by reason of the death of the person's spouse or the person's
32 domestic partner, or when other substantial changes occur in disposable
33 income that are likely to continue for an indefinite period of time,
34 the combined disposable income of such person shall be calculated by
35 multiplying the average monthly combined disposable income of such
36 person after such occurrences by twelve. If it is necessary to
37 estimate income to comply with this subsection, the assessor may

1 require confirming documentation of such income prior to May 31 of the
2 year following application;

3 (5)(a) A person who otherwise qualifies under this section and has
4 a combined disposable income of thirty-five thousand dollars or less
5 shall be exempt from all excess property taxes; and

6 (b)(i) A person who otherwise qualifies under this section and has
7 a combined disposable income of thirty thousand dollars or less but
8 greater than twenty-five thousand dollars shall be exempt from all
9 regular property taxes on the greater of fifty thousand dollars or
10 thirty-five percent of the valuation of his or her residence, but not
11 to exceed seventy thousand dollars of the valuation of his or her
12 residence; or

13 (ii) A person who otherwise qualifies under this section and has a
14 combined disposable income of twenty-five thousand dollars or less
15 shall be exempt from all regular property taxes on the greater of sixty
16 thousand dollars or sixty percent of the valuation of his or her
17 residence;

18 (6) For a person who otherwise qualifies under this section and has
19 a combined disposable income of thirty-five thousand dollars or less,
20 the valuation of the residence shall be the assessed value of the
21 residence on the later of January 1, 1995, or January 1st of the
22 assessment year the person first qualifies under this section. If the
23 person subsequently fails to qualify under this section only for one
24 year because of high income, this same valuation shall be used upon
25 requalification. If the person fails to qualify for more than one year
26 in succession because of high income or fails to qualify for any other
27 reason, the valuation upon requalification shall be the assessed value
28 on January 1st of the assessment year in which the person requalifies.
29 If the person transfers the exemption under this section to a different
30 residence, the valuation of the different residence shall be the
31 assessed value of the different residence on January 1st of the
32 assessment year in which the person transfers the exemption.

33 In no event may the valuation under this subsection be greater than
34 the true and fair value of the residence on January 1st of the
35 assessment year.

36 This subsection does not apply to subsequent improvements to the
37 property in the year in which the improvements are made. Subsequent

1 improvements to the property shall be added to the value otherwise
2 determined under this subsection at their true and fair value in the
3 year in which they are made.

4 **Sec. 707.** RCW 84.36.041 and 2001 c 187 s 14 are each amended to
5 read as follows:

6 (1) All real and personal property used by a nonprofit home for the
7 aging that is reasonably necessary for the purposes of the home is
8 exempt from taxation if the benefit of the exemption inures to the home
9 and:

10 (a) At least fifty percent of the occupied dwelling units in the
11 home are occupied by eligible residents; or

12 (b) The home is subsidized under a federal department of housing
13 and urban development program. The department of revenue shall provide
14 by rule a definition of homes eligible for exemption under this
15 subsection (1)(b), consistent with the purposes of this section.

16 (2) All real and personal property used by a nonprofit home for the
17 aging that is reasonably necessary for the purposes of the home is
18 exempt from taxation if the benefit of the exemption inures to the home
19 and the construction, rehabilitation, acquisition, or refinancing of
20 the home is financed under a program using bonds exempt from federal
21 income tax if at least seventy-five percent of the total amount
22 financed uses the tax exempt bonds and the financing program requires
23 the home to reserve a percentage of all dwelling units so financed for
24 low-income residents. The initial term of the exemption under this
25 subsection shall equal the term of the tax exempt bond used in
26 connection with the financing program, or the term of the requirement
27 to reserve dwelling units for low-income residents, whichever is
28 shorter. If the financing program involves less than the entire home,
29 only those dwelling units included in the financing program are
30 eligible for total exemption. The department of revenue shall provide
31 by rule the requirements for monitoring compliance with the provisions
32 of this subsection and the requirements for exemption including:

33 (a) The number or percentage of dwelling units required to be
34 occupied by low-income residents, and a definition of low income;

35 (b) The type and character of the dwelling units, whether
36 independent units or otherwise; and

1 (c) Any particular requirements for continuing care retirement
2 communities.

3 (3) A home for the aging is eligible for a partial exemption on the
4 real property and a total exemption for the home's personal property if
5 the home does not meet the requirements of subsection (1) of this
6 section because fewer than fifty percent of the occupied dwelling units
7 are occupied by eligible residents, as follows:

8 (a) A partial exemption shall be allowed for each dwelling unit in
9 a home occupied by a resident requiring assistance with activities of
10 daily living.

11 (b) A partial exemption shall be allowed for each dwelling unit in
12 a home occupied by an eligible resident.

13 (c) A partial exemption shall be allowed for an area jointly used
14 by a home for the aging and by a nonprofit organization, association,
15 or corporation currently exempt from property taxation under one of the
16 other provisions of this chapter. The shared area must be reasonably
17 necessary for the purposes of the nonprofit organization, association,
18 or corporation exempt from property taxation under one of the other
19 provisions of this chapter, such as kitchen, dining, and laundry areas.

20 (d) The amount of exemption shall be calculated by multiplying the
21 assessed value of the property reasonably necessary for the purposes of
22 the home, less the assessed value of any area exempt under (c) of this
23 subsection, by a fraction. The numerator of the fraction is the number
24 of dwelling units occupied by eligible residents and by residents
25 requiring assistance with activities of daily living. The denominator
26 of the fraction is the total number of occupied dwelling units as of
27 December 31st of the first assessment year the home becomes operational
28 for which exemption is claimed and January 1st of each subsequent
29 assessment year for which exemption is claimed.

30 (4) To be exempt under this section, the property must be used
31 exclusively for the purposes for which the exemption is granted, except
32 as provided in RCW 84.36.805.

33 (5) A home for the aging is exempt from taxation only if the
34 organization operating the home is exempt from income tax under section
35 501(c) of the federal internal revenue code as existing on January 1,
36 1989, or such subsequent date as the director may provide by rule
37 consistent with the purposes of this section.

1 (6) In order for the home to be eligible for exemption under
2 subsections (1)(a) and (3)(b) of this section, each eligible resident
3 of a home for the aging shall submit an income verification form to the
4 county assessor by July 1st of the assessment year for which exemption
5 is claimed. However, during the first year a home becomes operational,
6 the county assessor shall accept income verification forms from
7 eligible residents up to December 31st of the assessment year. The
8 income verification form shall be prescribed and furnished by the
9 department of revenue. An eligible resident who has filed a form for
10 a previous year need not file a new form until there is a change in
11 status affecting the person's eligibility.

12 (7) In determining the true and fair value of a home for the aging
13 for purposes of the partial exemption provided by subsection (3) of
14 this section, the assessor shall apply the computation method provided
15 by RCW 84.34.060 and shall consider only the use to which such property
16 is applied during the years for which such partial exemptions are
17 available and shall not consider potential uses of such property.

18 (8) As used in this section:

19 (a) "Eligible resident" means a person who:

20 (i) Occupied the dwelling unit as a principal place of residence as
21 of December 31st of the first assessment year the home becomes
22 operational. In each subsequent year, the eligible resident must
23 occupy the dwelling unit as a principal place of residence as of
24 January 1st of the assessment year for which the exemption is claimed.
25 Confinement of the person to a hospital or nursing home does not
26 disqualify the claim of exemption if the dwelling unit is temporarily
27 unoccupied or if the dwelling unit is occupied by a spouse or a
28 domestic partner, a person financially dependent on the claimant for
29 support, or both; and

30 (ii) Is sixty-one years of age or older on December 31st of the
31 year in which the exemption claim is filed, or is, at the time of
32 filing, retired from regular gainful employment by reason of physical
33 disability. Any surviving spouse or surviving domestic partner of a
34 person who was receiving an exemption at the time of the person's death
35 shall qualify if the surviving spouse or surviving domestic partner is
36 fifty-seven years of age or older and otherwise meets the requirements
37 of this subsection; and

1 (iii) Has a combined disposable income of no more than the greater
2 of twenty-two thousand dollars or eighty percent of the median income
3 adjusted for family size as most recently determined by the federal
4 department of housing and urban development for the county in which the
5 person resides. For the purposes of determining eligibility under this
6 section, a "cotenant" means a person who resides with an eligible
7 resident and who shares personal financial resources with the eligible
8 resident.

9 (b) "Combined disposable income" means the disposable income of the
10 person submitting the income verification form, plus the disposable
11 income of his or her spouse or domestic partner, and the disposable
12 income of each cotenant occupying the dwelling unit for the preceding
13 calendar year, less amounts paid by the person submitting the income
14 verification form or his or her spouse or domestic partner or cotenant
15 during the previous year for the treatment or care of either person
16 received in the dwelling unit or in a nursing home. If the person
17 submitting the income verification form was retired for two months or
18 more of the preceding year, the combined disposable income of such
19 person shall be calculated by multiplying the average monthly combined
20 disposable income of such person during the months such person was
21 retired by twelve. If the income of the person submitting the income
22 verification form is reduced for two or more months of the preceding
23 year by reason of the death of the person's spouse or domestic partner,
24 the combined disposable income of such person shall be calculated by
25 multiplying the average monthly combined disposable income of such
26 person after the death of the spouse or domestic partner by twelve.

27 (c) "Disposable income" means adjusted gross income as defined in
28 the federal internal revenue code, as amended prior to January 1, 1989,
29 or such subsequent date as the director may provide by rule consistent
30 with the purpose of this section, plus all of the following items to
31 the extent they are not included in or have been deducted from adjusted
32 gross income:

33 (i) Capital gains, other than gain excluded from income under
34 section 121 of the federal internal revenue code to the extent it is
35 reinvested in a new principal residence;

36 (ii) Amounts deducted for loss;

37 (iii) Amounts deducted for depreciation;

38 (iv) Pension and annuity receipts;

1 (v) Military pay and benefits other than attendant-care and
2 medical-aid payments;

3 (vi) Veterans benefits other than attendant-care and medical-aid
4 payments;

5 (vii) Federal social security act and railroad retirement benefits;

6 (viii) Dividend receipts; and

7 (ix) Interest received on state and municipal bonds.

8 (d) "Resident requiring assistance with activities of daily living"
9 means a person who requires significant assistance with the activities
10 of daily living and who would be at risk of nursing home placement
11 without this assistance.

12 (e) "Home for the aging" means a residential housing facility that
13 (i) provides a housing arrangement chosen voluntarily by the resident,
14 the resident's guardian or conservator, or another responsible person;
15 (ii) has only residents who are at least sixty-one years of age or who
16 have needs for care generally compatible with persons who are at least
17 sixty-one years of age; and (iii) provides varying levels of care and
18 supervision, as agreed to at the time of admission or as determined
19 necessary at subsequent times of reappraisal.

20 (9) A for-profit home for the aging that converts to nonprofit
21 status after June 11, 1992, and would otherwise be eligible for tax
22 exemption under this section may not receive the tax exemption until
23 five years have elapsed since the conversion. The exemption shall then
24 be ratably granted over the next five years.

25 **Sec. 708.** RCW 84.36.120 and 1973 1st ex.s. c 154 s 120 are each
26 amended to read as follows:

27 For the purposes of RCW 84.36.110 "head of a family" shall be
28 construed to include a surviving spouse (~~((not))~~) or surviving domestic
29 partner who has neither remarried nor entered into a subsequent
30 domestic partnership, any person receiving an old age pension under the
31 laws of this state and any citizen of the United States, over the age
32 of sixty-five years, who has resided in the state of Washington
33 continuously for ten years.

34 "Personal effects" shall be construed to mean and include such
35 tangible property as usually and ordinarily attends the person such as
36 wearing apparel, jewelry, toilet articles and the like.

1 "Private motor vehicle" shall be construed to mean and include all
2 motor vehicles used for the convenience or pleasure of the owner and
3 carrying a licensing classification other than motor vehicle for hire,
4 auto stage, auto stage trailer, motor truck, motor truck trailer or
5 dealers' licenses.

6 "Mobile home" shall be construed to mean and include all trailers
7 of the type designed as facilities for human habitation and which are
8 capable of being moved upon the public streets and highways and which
9 are more than thirty-five feet in length or more than eight feet in
10 width.

11 **Sec. 709.** RCW 84.36.383 and 2006 c 62 s 1 are each amended to read
12 as follows:

13 As used in RCW 84.36.381 through 84.36.389, except where the
14 context clearly indicates a different meaning:

15 (1) The term "residence" means a single family dwelling unit
16 whether such unit be separate or part of a multiunit dwelling,
17 including the land on which such dwelling stands not to exceed one
18 acre, except that a residence includes any additional property up to a
19 total of five acres that comprises the residential parcel if this
20 larger parcel size is required under land use regulations. The term
21 shall also include a share ownership in a cooperative housing
22 association, corporation, or partnership if the person claiming
23 exemption can establish that his or her share represents the specific
24 unit or portion of such structure in which he or she resides. The term
25 shall also include a single family dwelling situated upon lands the fee
26 of which is vested in the United States or any instrumentality thereof
27 including an Indian tribe or in the state of Washington, and
28 notwithstanding the provisions of RCW 84.04.080 and 84.04.090, such a
29 residence shall be deemed real property.

30 (2) The term "real property" shall also include a mobile home which
31 has substantially lost its identity as a mobile unit by virtue of its
32 being fixed in location upon land owned or leased by the owner of the
33 mobile home and placed on a foundation (posts or blocks) with fixed
34 pipe, connections with sewer, water, or other utilities. A mobile home
35 located on land leased by the owner of the mobile home is subject, for
36 tax billing, payment, and collection purposes, only to the personal
37 property provisions of chapter 84.56 RCW and RCW 84.60.040.

1 (3) "Department" means the state department of revenue.

2 (4) "Combined disposable income" means the disposable income of the
3 person claiming the exemption, plus the disposable income of his or her
4 spouse or domestic partner, and the disposable income of each cotenant
5 occupying the residence for the assessment year, less amounts paid by
6 the person claiming the exemption or his or her spouse or domestic
7 partner during the assessment year for:

8 (a) Drugs supplied by prescription of a medical practitioner
9 authorized by the laws of this state or another jurisdiction to issue
10 prescriptions;

11 (b) The treatment or care of either person received in the home or
12 in a nursing home, boarding home, or adult family home; and

13 (c) Health care insurance premiums for medicare under Title XVIII
14 of the social security act.

15 (5) "Disposable income" means adjusted gross income as defined in
16 the federal internal revenue code, as amended prior to January 1, 1989,
17 or such subsequent date as the director may provide by rule consistent
18 with the purpose of this section, plus all of the following items to
19 the extent they are not included in or have been deducted from adjusted
20 gross income:

21 (a) Capital gains, other than gain excluded from income under
22 section 121 of the federal internal revenue code to the extent it is
23 reinvested in a new principal residence;

24 (b) Amounts deducted for loss;

25 (c) Amounts deducted for depreciation;

26 (d) Pension and annuity receipts;

27 (e) Military pay and benefits other than attendant-care and
28 medical-aid payments;

29 (f) Veterans benefits other than attendant-care and medical-aid
30 payments;

31 (g) Federal social security act and railroad retirement benefits;

32 (h) Dividend receipts; and

33 (i) Interest received on state and municipal bonds.

34 (6) "Cotenant" means a person who resides with the person claiming
35 the exemption and who has an ownership interest in the residence.

36 (7) "Disability" has the same meaning as provided in 42 U.S.C. Sec.
37 423(d)(1)(A) as amended prior to January 1, 2004, or such subsequent

1 date as the director may provide by rule consistent with the purpose of
2 this section.

3 **Sec. 710.** RCW 84.37.080 and 2007 sp.s. c 2 s 8 are each amended to
4 read as follows:

5 Special assessments or real property tax obligations, or both,
6 deferred under this chapter shall become payable together with interest
7 as provided in RCW 84.37.070:

8 (1) Upon the sale of property which has a deferred special
9 assessment lien or real property tax lien, or both, upon it;

10 (2) Upon the death of the claimant with an outstanding deferred
11 special assessment lien or real property tax lien, or both, except a
12 surviving spouse or surviving domestic partner who is qualified under
13 this chapter may elect to incur the special assessment lien or real
14 property tax lien, or both, which shall then be payable by that spouse
15 or that domestic partner as provided in this section;

16 (3) Upon the condemnation of property with a deferred special
17 assessment lien or real property tax lien, or both, upon it by a public
18 or private body exercising eminent domain power, except as otherwise
19 provided in RCW 84.60.070; or

20 (4) At such time as the claimant ceases to reside permanently in
21 the residence upon which the deferral has been granted.

22 **PART VIII - GUARDIANSHIP AND POWER OF ATTORNEY**

23 **Sec. 801.** RCW 7.36.020 and 1977 ex.s. c 80 s 8 are each amended to
24 read as follows:

25 Writs of habeas corpus shall be granted in favor of parents,
26 guardians, limited guardians where appropriate, spouses or domestic
27 partners, and next of kin, and to enforce the rights, and for the
28 protection of infants and incompetent or disabled persons within the
29 meaning of RCW 11.88.010; and the proceedings shall in all cases
30 conform to the provisions of this chapter.

31 **Sec. 802.** RCW 11.88.010 and 2005 c 236 s 3 are each amended to
32 read as follows:

33 (1) The superior court of each county shall have power to appoint

1 guardians for the persons and/or estates of incapacitated persons, and
2 guardians for the estates of nonresidents of the state who have
3 property in the county needing care and attention.

4 (a) For purposes of this chapter, a person may be deemed
5 incapacitated as to person when the superior court determines the
6 individual has a significant risk of personal harm based upon a
7 demonstrated inability to adequately provide for nutrition, health,
8 housing, or physical safety.

9 (b) For purposes of this chapter, a person may be deemed
10 incapacitated as to the person's estate when the superior court
11 determines the individual is at significant risk of financial harm
12 based upon a demonstrated inability to adequately manage property or
13 financial affairs.

14 (c) A determination of incapacity is a legal not a medical
15 decision, based upon a demonstration of management insufficiencies over
16 time in the area of person or estate. Age, eccentricity, poverty, or
17 medical diagnosis alone shall not be sufficient to justify a finding of
18 incapacity.

19 (d) A person may also be determined incapacitated if he or she is
20 under the age of majority as defined in RCW 26.28.010.

21 (e) For purposes of giving informed consent for health care
22 pursuant to RCW 7.70.050 and 7.70.065, an "incompetent" person is any
23 person who is (i) incompetent by reason of mental illness,
24 developmental disability, senility, habitual drunkenness, excessive use
25 of drugs, or other mental incapacity, of either managing his or her
26 property or caring for himself or herself, or both, or (ii)
27 incapacitated as defined in (a), (b), or (d) of this subsection.

28 (f) For purposes of the terms "incompetent," "disabled," or "not
29 legally competent," as those terms are used in the Revised Code of
30 Washington to apply to persons incapacitated under this chapter, those
31 terms shall be interpreted to mean "incapacitated" persons for purposes
32 of this chapter.

33 (2) The superior court for each county shall have power to appoint
34 limited guardians for the persons and estates, or either thereof, of
35 incapacitated persons, who by reason of their incapacity have need for
36 protection and assistance, but who are capable of managing some of
37 their personal and financial affairs. After considering all evidence
38 presented as a result of such investigation, the court shall impose, by

1 order, only such specific limitations and restrictions on an
2 incapacitated person to be placed under a limited guardianship as the
3 court finds necessary for such person's protection and assistance. A
4 person shall not be presumed to be incapacitated nor shall a person
5 lose any legal rights or suffer any legal disabilities as the result of
6 being placed under a limited guardianship, except as to those rights
7 and disabilities specifically set forth in the court order establishing
8 such a limited guardianship. In addition, the court order shall state
9 the period of time for which it shall be applicable.

10 (3) Venue for petitions for guardianship or limited guardianship
11 shall lie in the county wherein the alleged incapacitated person is
12 domiciled, or if such person resides in a facility supported in whole
13 or in part by local, state, or federal funding sources, in either the
14 county where the facility is located, the county of domicile prior to
15 residence in the supported facility, or the county where a parent or
16 spouse or domestic partner of the alleged incapacitated person is
17 domiciled.

18 If the alleged incapacitated person's residency has changed within
19 one year of the filing of the petition, any interested person may move
20 for a change of venue for any proceedings seeking the appointment of a
21 guardian or a limited guardian under this chapter to the county of the
22 alleged incapacitated person's last place of residence of one year or
23 more. The motion shall be granted when it appears to the court that
24 such venue would be in the best interests of the alleged incapacitated
25 person and would promote more complete consideration of all relevant
26 matters.

27 (4) Under RCW 11.94.010, a principal may nominate, by a durable
28 power of attorney, the guardian or limited guardian of his or her
29 estate or person for consideration by the court if guardianship
30 proceedings for the principal's person or estate are thereafter
31 commenced. The court shall make its appointment in accordance with the
32 principal's most recent nomination in a durable power of attorney
33 except for good cause or disqualification.

34 (5) Imposition of a guardianship for an incapacitated person shall
35 not result in the loss of the right to vote unless the court determines
36 that the person is incompetent for purposes of rationally exercising
37 the franchise in that the individual lacks the capacity to understand
38 the nature and effect of voting such that she or he cannot make an

1 individual choice. The court order establishing guardianship shall
2 specify whether or not the individual retains voting rights. When a
3 court determines that the person is incompetent for the purpose of
4 rationally exercising the right to vote, the court shall notify the
5 appropriate county auditor.

6 **Sec. 803.** RCW 11.88.040 and 1995 c 297 s 2 are each amended to
7 read as follows:

8 Before appointing a guardian or a limited guardian, notice of a
9 hearing, to be held not less than ten days after service thereof, shall
10 be served personally upon the alleged incapacitated person, if over
11 fourteen years of age, and served upon the guardian ad litem.

12 Before appointing a guardian or a limited guardian, notice of a
13 hearing, to be held not less than ten days after service thereof, shall
14 be given by registered or certified mail to the last known address
15 requesting a return receipt signed by the addressee or an agent
16 appointed by the addressee, or by personal service in the manner
17 provided for services of summons, to the following:

18 (1) The alleged incapacitated person, or minor, if under fourteen
19 years of age;

20 (2) A parent, if the alleged incapacitated person is a minor, all
21 known children not residing with a notified person, and the spouse or
22 domestic partner of the alleged incapacitated person if any;

23 (3) Any other person who has been appointed as guardian or limited
24 guardian, or the person with whom the alleged incapacitated person
25 resides. No notice need be given to those persons named in subsections
26 (2) and (3) of this section if they have signed the petition for the
27 appointment of the guardian or limited guardian or have waived notice
28 of the hearing.

29 (4) If the petition is by a parent asking for appointment as
30 guardian or limited guardian of a minor child under the age of fourteen
31 years, or if the petition is accompanied by the written consent of a
32 minor of the age of fourteen years or upward, who consents to the
33 appointment of the guardian or limited guardian asked for, or if the
34 petition is by a nonresident guardian of any minor or incapacitated
35 person, then the court may appoint the guardian without notice of the
36 hearing. The court for good cause may reduce the number of days of
37 notice, but in every case, at least three days notice shall be given.

1 The alleged incapacitated person shall be present in court at the
2 final hearing on the petition: PROVIDED, That this requirement may be
3 waived at the discretion of the court for good cause other than mere
4 inconvenience shown in the report to be provided by the guardian ad
5 litem pursuant to RCW 11.88.090 as now or hereafter amended, or if no
6 guardian ad litem is required to be appointed pursuant to RCW
7 11.88.090, as now or hereafter amended, at the discretion of the court
8 for good cause shown by a party. Alternatively, the court may remove
9 itself to the place of residence of the alleged incapacitated person
10 and conduct the final hearing in the presence of the alleged
11 incapacitated person. Final hearings on the petition may be held in
12 closed court without admittance of any person other than those
13 necessary to the action or proceeding.

14 If presence of the alleged incapacitated person is waived and the
15 court does not remove itself to the place of residence of such person,
16 the guardian ad litem shall appear in person at the final hearing on
17 the petition.

18 **Sec. 804.** RCW 11.88.090 and 2000 c 124 s 1 are each amended to
19 read as follows:

20 (1) Nothing contained in RCW 11.88.080 through 11.88.120, 11.92.010
21 through 11.92.040, 11.92.060 through 11.92.120, 11.92.170, and
22 11.92.180 shall affect or impair the power of any court to appoint a
23 guardian ad litem to defend the interests of any incapacitated person
24 interested in any suit or matter pending therein, or to commence and
25 prosecute any suit in his or her behalf.

26 (2) Prior to the appointment of a guardian or a limited guardian,
27 whenever it appears that the incapacitated person or incapacitated
28 person's estate could benefit from mediation and such mediation would
29 likely result in overall reduced costs to the estate, upon the motion
30 of the alleged incapacitated person or the guardian ad litem, or
31 subsequent to such appointment, whenever it appears that the
32 incapacitated person or incapacitated person's estate could benefit
33 from mediation and such mediation would likely result in overall
34 reduced costs to the estate, upon the motion of any interested person,
35 the court may:

36 (a) Require any party or other person subject to the jurisdiction
37 of the court to participate in mediation;

1 (b) Establish the terms of the mediation; and

2 (c) Allocate the cost of the mediation pursuant to RCW 11.96.140.

3 (3) Upon receipt of a petition for appointment of guardian or
4 limited guardian, except as provided herein, the court shall appoint a
5 guardian ad litem to represent the best interests of the alleged
6 incapacitated person, who shall be a person found or known by the court
7 to:

8 (a) Be free of influence from anyone interested in the result of
9 the proceeding; and

10 (b) Have the requisite knowledge, training, or expertise to perform
11 the duties required by this section.

12 The guardian ad litem shall within five days of receipt of notice
13 of appointment file with the court and serve, either personally or by
14 certified mail with return receipt, each party with a statement
15 including: His or her training relating to the duties as a guardian ad
16 litem; his or her criminal history as defined in RCW 9.94A.030 for the
17 period covering ten years prior to the appointment; his or her hourly
18 rate, if compensated; whether the guardian ad litem has had any contact
19 with a party to the proceeding prior to his or her appointment; and
20 whether he or she has an apparent conflict of interest. Within three
21 days of the later of the actual service or filing of the guardian ad
22 litem's statement, any party may set a hearing and file and serve a
23 motion for an order to show cause why the guardian ad litem should not
24 be removed for one of the following three reasons: (i) Lack of
25 expertise necessary for the proceeding; (ii) an hourly rate higher than
26 what is reasonable for the particular proceeding; or (iii) a conflict
27 of interest. Notice of the hearing shall be provided to the guardian
28 ad litem and all parties. If, after a hearing, the court enters an
29 order replacing the guardian ad litem, findings shall be included,
30 expressly stating the reasons for the removal. If the guardian ad
31 litem is not removed, the court has the authority to assess to the
32 moving party, attorneys' fees and costs related to the motion. The
33 court shall assess attorneys' fees and costs for frivolous motions.

34 No guardian ad litem need be appointed when a parent is petitioning
35 for a guardian or a limited guardian to be appointed for his or her
36 minor child and the minority of the child, as defined by RCW 11.92.010,
37 is the sole basis of the petition. The order appointing the guardian
38 ad litem shall recite the duties set forth in subsection (5) of this

1 section. The appointment of a guardian ad litem shall have no effect
2 on the legal competency of the alleged incapacitated person and shall
3 not overcome the presumption of competency or full legal and civil
4 rights of the alleged incapacitated person.

5 (4)(a) The superior court of each county shall develop and maintain
6 a registry of persons who are willing and qualified to serve as
7 guardians ad litem in guardianship matters. The court shall choose as
8 guardian ad litem a person whose name appears on the registry in a
9 system of consistent rotation, except in extraordinary circumstances
10 such as the need for particular expertise. The court shall develop
11 procedures for periodic review of the persons on the registry and for
12 probation, suspension, or removal of persons on the registry for
13 failure to perform properly their duties as guardian ad litem. In the
14 event the court does not select the person next on the list, it shall
15 include in the order of appointment a written reason for its decision.

16 (b) To be eligible for the registry a person shall:

17 (i) Present a written statement outlining his or her background and
18 qualifications. The background statement shall include, but is not
19 limited to, the following information:

20 (A) Level of formal education;

21 (B) Training related to the guardian ad litem's duties;

22 (C) Number of years' experience as a guardian ad litem;

23 (D) Number of appointments as a guardian ad litem and the county or
24 counties of appointment;

25 (E) Criminal history, as defined in RCW 9.94A.030; and

26 (F) Evidence of the person's knowledge, training, and experience in
27 each of the following: Needs of impaired elderly people, physical
28 disabilities, mental illness, developmental disabilities, and other
29 areas relevant to the needs of incapacitated persons, legal procedure,
30 and the requirements of chapters 11.88 and 11.92 RCW.

31 The written statement of qualifications shall include the names of
32 any counties in which the person was removed from a guardian ad litem
33 registry pursuant to a grievance action, and the name of the court and
34 the cause number of any case in which the court has removed the person
35 for cause; and

36 (ii) Complete the training as described in (e) of this subsection.
37 The training is not applicable to guardians ad litem appointed pursuant
38 to special proceeding Rule 98.16W.

1 (c) Superior court shall remove any person from the guardian ad
2 litem registry who misrepresents his or her qualifications pursuant to
3 a grievance procedure established by the court.

4 (d) The background and qualification information shall be updated
5 annually.

6 (e) The department of social and health services shall convene an
7 advisory group to develop a model guardian ad litem training program
8 and shall update the program biennially. The advisory group shall
9 consist of representatives from consumer, advocacy, and professional
10 groups knowledgeable in developmental disabilities, neurological
11 impairment, physical disabilities, mental illness, domestic violence,
12 aging, legal, court administration, the Washington state bar
13 association, and other interested parties.

14 (f) The superior court shall require utilization of the model
15 program developed by the advisory group as described in (e) of this
16 subsection, to assure that candidates applying for registration as a
17 qualified guardian ad litem shall have satisfactorily completed
18 training to attain these essential minimum qualifications to act as
19 guardian ad litem.

20 (5) The guardian ad litem appointed pursuant to this section shall
21 have the following duties:

22 (a) To meet and consult with the alleged incapacitated person as
23 soon as practicable following appointment and explain, in language
24 which such person can reasonably be expected to understand, the
25 substance of the petition, the nature of the resultant proceedings, the
26 person's right to contest the petition, the identification of the
27 proposed guardian or limited guardian, the right to a jury trial on the
28 issue of his or her alleged incapacity, the right to independent legal
29 counsel as provided by RCW 11.88.045, and the right to be present in
30 court at the hearing on the petition;

31 (b) To obtain a written report according to RCW 11.88.045; and such
32 other written or oral reports from other qualified professionals as are
33 necessary to permit the guardian ad litem to complete the report
34 required by this section;

35 (c) To meet with the person whose appointment is sought as guardian
36 or limited guardian and ascertain:

37 (i) The proposed guardian's knowledge of the duties, requirements,
38 and limitations of a guardian; and

1 (ii) The steps the proposed guardian intends to take or has taken
2 to identify and meet the needs of the alleged incapacitated person;

3 (d) To consult as necessary to complete the investigation and
4 report required by this section with those known relatives, friends, or
5 other persons the guardian ad litem determines have had a significant,
6 continuing interest in the welfare of the alleged incapacitated person;

7 (e) To investigate alternate arrangements made, or which might be
8 created, by or on behalf of the alleged incapacitated person, such as
9 revocable or irrevocable trusts, durable powers of attorney, or blocked
10 accounts; whether good cause exists for any such arrangements to be
11 discontinued; and why such arrangements should not be continued or
12 created in lieu of a guardianship;

13 (f) To provide the court with a written report which shall include
14 the following:

15 (i) A description of the nature, cause, and degree of incapacity,
16 and the basis upon which this judgment was made;

17 (ii) A description of the needs of the incapacitated person for
18 care and treatment, the probable residential requirements of the
19 alleged incapacitated person and the basis upon which these findings
20 were made;

21 (iii) An evaluation of the appropriateness of the guardian or
22 limited guardian whose appointment is sought and a description of the
23 steps the proposed guardian has taken or intends to take to identify
24 and meet current and emerging needs of the incapacitated person;

25 (iv) A description of any alternative arrangements previously made
26 by the alleged incapacitated person or which could be made, and whether
27 and to what extent such alternatives should be used in lieu of a
28 guardianship, and if the guardian ad litem is recommending
29 discontinuation of any such arrangements, specific findings as to why
30 such arrangements are contrary to the best interest of the alleged
31 incapacitated person;

32 (v) A description of the abilities of the alleged incapacitated
33 person and a recommendation as to whether a guardian or limited
34 guardian should be appointed. If appointment of a limited guardian is
35 recommended, the guardian ad litem shall recommend the specific areas
36 of authority the limited guardian should have and the limitations and
37 disabilities to be placed on the incapacitated person;

1 (vi) An evaluation of the person's mental ability to rationally
2 exercise the right to vote and the basis upon which the evaluation is
3 made;

4 (vii) Any expression of approval or disapproval made by the alleged
5 incapacitated person concerning the proposed guardian or limited
6 guardian or guardianship or limited guardianship;

7 (viii) Identification of persons with significant interest in the
8 welfare of the alleged incapacitated person who should be advised of
9 their right to request special notice of proceedings pursuant to RCW
10 11.92.150; and

11 (ix) Unless independent counsel has appeared for the alleged
12 incapacitated person, an explanation of how the alleged incapacitated
13 person responded to the advice of the right to jury trial, to
14 independent counsel and to be present at the hearing on the petition.

15 Within forty-five days after notice of commencement of the
16 guardianship proceeding has been served upon the guardian ad litem, and
17 at least fifteen days before the hearing on the petition, unless an
18 extension or reduction of time has been granted by the court for good
19 cause, the guardian ad litem shall file its report and send a copy to
20 the alleged incapacitated person and his or her counsel, spouse or
21 domestic partner, all children not residing with a notified person,
22 those persons described in (f)(viii) of this subsection, and persons
23 who have filed a request for special notice pursuant to RCW 11.92.150.
24 If the guardian ad litem needs additional time to finalize his or her
25 report, then the guardian ad litem shall petition the court for a
26 postponement of the hearing or, with the consent of all other parties,
27 an extension or reduction of time for filing the report. If the
28 hearing does not occur within sixty days of filing the petition, then
29 upon the two-month anniversary of filing the petition and on or before
30 the same day of each following month until the hearing, the guardian ad
31 litem shall file interim reports summarizing his or her activities on
32 the proceeding during that time period as well as fees and costs
33 incurred;

34 (g) To advise the court of the need for appointment of counsel for
35 the alleged incapacitated person within five court days after the
36 meeting described in (a) of this subsection unless (i) counsel has
37 appeared, (ii) the alleged incapacitated person affirmatively
38 communicated a wish not to be represented by counsel after being

1 advised of the right to representation and of the conditions under
2 which court-provided counsel may be available, or (iii) the alleged
3 incapacitated person was unable to communicate at all on the subject,
4 and the guardian ad litem is satisfied that the alleged incapacitated
5 person does not affirmatively desire to be represented by counsel.

6 (6) If the petition is brought by an interested person or entity
7 requesting the appointment of some other qualified person or entity and
8 a prospective guardian or limited guardian cannot be found, the court
9 shall order the guardian ad litem to investigate the availability of a
10 possible guardian or limited guardian and to include the findings in a
11 report to the court pursuant to subsection (5)(f) of this section.

12 (7) The parties to the proceeding may file responses to the
13 guardian ad litem report with the court and deliver such responses to
14 the other parties and the guardian ad litem at any time up to the
15 second day prior to the hearing. If a guardian ad litem fails to file
16 his or her report in a timely manner, the hearing shall be continued to
17 give the court and the parties at least fifteen days before the hearing
18 to review the report. At any time during the proceeding upon motion of
19 any party or on the court's own motion, the court may remove the
20 guardian ad litem for failure to perform his or her duties as specified
21 in this chapter, provided that the guardian ad litem shall have five
22 days' notice of any motion to remove before the court enters such
23 order. In addition, the court in its discretion may reduce a guardian
24 ad litem's fee for failure to carry out his or her duties.

25 (8) The court appointed guardian ad litem shall have the authority,
26 in the event that the alleged incapacitated person is in need of
27 emergency life-saving medical services, and is unable to consent to
28 such medical services due to incapacity pending the hearing on the
29 petition to give consent for such emergency life-saving medical
30 services on behalf of the alleged incapacitated person.

31 (9) The court-appointed guardian ad litem shall have the authority
32 to move for temporary relief under chapter 7.40 RCW to protect the
33 alleged incapacitated person from abuse, neglect, abandonment, or
34 exploitation, as those terms are defined in RCW 74.34.020, or to
35 address any other emergency needs of the alleged incapacitated person.
36 Any alternative arrangement executed before filing the petition for
37 guardianship shall remain effective unless the court grants the relief
38 requested under chapter 7.40 RCW, or unless, following notice and a

1 hearing at which all parties directly affected by the arrangement are
2 present, the court finds that the alternative arrangement should not
3 remain effective.

4 (10) The guardian ad litem shall receive a fee determined by the
5 court. The fee shall be charged to the alleged incapacitated person
6 unless the court finds that such payment would result in substantial
7 hardship upon such person, in which case the county shall be
8 responsible for such costs: PROVIDED, That the court may charge such
9 fee to the petitioner, the alleged incapacitated person, or any person
10 who has appeared in the action; or may allocate the fee, as it deems
11 just. If the petition is found to be frivolous or not brought in good
12 faith, the guardian ad litem fee shall be charged to the petitioner.
13 The court shall not be required to provide for the payment of a fee to
14 any salaried employee of a public agency.

15 (11) Upon the presentation of the guardian ad litem report and the
16 entry of an order either dismissing the petition for appointment of
17 guardian or limited guardian or appointing a guardian or limited
18 guardian, the guardian ad litem shall be dismissed and shall have no
19 further duties or obligations unless otherwise ordered by the court.
20 If the court orders the guardian ad litem to perform further duties or
21 obligations, they shall not be performed at county expense.

22 (12) The guardian ad litem shall appear in person at all hearings
23 on the petition unless all parties provide a written waiver of the
24 requirement to appear.

25 (13) At any hearing the court may consider whether any person who
26 makes decisions regarding the alleged incapacitated person or estate
27 has breached a statutory or fiduciary duty.

28 **Sec. 805.** RCW 11.88.125 and 1991 c 289 s 8 are each amended to
29 read as follows:

30 (1) The person appointed by the court as either guardian or limited
31 guardian of the person and/or estate of an incapacitated person, shall
32 file in writing with the court, a notice designating a standby limited
33 guardian or guardian to serve as limited guardian or guardian at the
34 death or legal incapacity of the court-appointed guardian or limited
35 guardian. The notice shall state the name, address, zip code, and
36 telephone number of the designated standby or limited guardian. Notice
37 of the guardian's designation of the standby guardian shall be given to

1 the standby guardian, the incapacitated person and his or her spouse or
2 domestic partner and adult children, any facility in which the
3 incapacitated person resides, and any person entitled to special notice
4 under RCW 11.92.150 or any person entitled to receive pleadings
5 pursuant to RCW 11.88.095(2)(g). Such standby guardian or limited
6 guardian shall have all the powers, duties, and obligations of the
7 regularly appointed guardian or limited guardian and in addition shall,
8 within a period of thirty days from the death or adjudication of
9 incapacity of the regularly appointed guardian or limited guardian,
10 file with the superior court in the county in which the guardianship or
11 limited guardianship is then being administered, a petition for
12 appointment of a substitute guardian or limited guardian. Upon the
13 court's appointment of a new, substitute guardian or limited guardian,
14 the standby guardian or limited guardian shall make an accounting and
15 report to be approved by the court, and upon approval of the court, the
16 standby guardian or limited guardian shall be released from all duties
17 and obligations arising from or out of the guardianship or limited
18 guardianship.

19 (2) Letters of guardianship shall be issued to the standby guardian
20 or limited guardian upon filing an oath and posting a bond as required
21 by RCW 11.88.100 as now or hereafter amended. The oath may be filed
22 prior to the appointed guardian or limited guardian's death. Notice of
23 such appointment shall be provided to the standby guardian, the
24 incapacitated person, and any facility in which the incapacitated
25 person resides. The provisions of RCW 11.88.100 through 11.88.110 as
26 now or hereafter amended shall apply to standby guardians and limited
27 guardians.

28 (3) In addition to the powers of a standby limited guardian or
29 guardian as noted in subsection (1) of this section, the standby
30 limited guardian or guardian shall have the authority to provide
31 timely, informed consent to necessary medical procedures, as authorized
32 in RCW 11.92.040 as now or hereafter amended, if the guardian or
33 limited guardian cannot be located within four hours after the need for
34 such consent arises.

35 **Sec. 806.** RCW 11.76.080 and 1997 c 252 s 71 are each amended to
36 read as follows:

1 If there be any alleged incapacitated person as defined in RCW
2 11.88.010 interested in the estate who has no legally appointed
3 guardian or limited guardian, the court:

4 (1) At any stage of the proceeding in its discretion and for such
5 purpose or purposes as it shall indicate, may appoint; and

6 (2) For hearings held under RCW 11.54.010, 11.68.041, 11.68.100,
7 and 11.76.050 or for entry of an order adjudicating testacy or
8 intestacy and heirship when no personal representative is appointed to
9 administer the estate of the decedent, shall appoint some disinterested
10 person as guardian ad litem to represent the allegedly incapacitated
11 person with reference to any petition, proceeding report, or
12 adjudication of testacy or intestacy without the appointment of a
13 personal representative to administer the estate of decedent in which
14 the alleged incapacitated person may have an interest, who, on behalf
15 of the alleged incapacitated person, may contest the same as any other
16 person interested might contest it, and who shall be allowed by the
17 court reasonable compensation for his or her services: PROVIDED,
18 HOWEVER, That where a surviving spouse or surviving domestic partner is
19 the sole beneficiary under the terms of a will, the court may grant a
20 motion by the personal representative to waive the appointment of a
21 guardian ad litem for a person who is the minor child of the surviving
22 spouse or surviving domestic partner and the decedent and who is
23 incapacitated solely for the reason of his or her being under eighteen
24 years of age.

25 **Sec. 807.** RCW 11.92.140 and 1999 c 42 s 616 are each amended to
26 read as follows:

27 The court, upon the petition of a guardian of the estate of an
28 incapacitated person other than the guardian of a minor, and after such
29 notice as the court directs and other notice to all persons interested
30 as required by chapter 11.96A RCW, may authorize the guardian to take
31 any action, or to apply funds not required for the incapacitated
32 person's own maintenance and support, in any fashion the court approves
33 as being in keeping with the incapacitated person's wishes so far as
34 they can be ascertained and as designed to minimize insofar as possible
35 current or prospective state or federal income and estate taxes, permit
36 entitlement under otherwise available federal or state medical or other

1 assistance programs, and to provide for gifts to such charities,
2 relatives, and friends as would be likely recipients of donations from
3 the incapacitated person.

4 The action or application of funds may include but shall not be
5 limited to the making of gifts, to the conveyance or release of the
6 incapacitated person's contingent and expectant interests in property
7 including marital or domestic partnership property rights and any right
8 of survivorship incident to joint tenancy or tenancy by the entirety,
9 to the exercise or release of the incapacitated person's powers as
10 donee of a power of appointment, the making of contracts, the creation
11 of revocable or irrevocable trusts of property of the incapacitated
12 person's estate which may extend beyond the incapacitated person's
13 disability or life, the establishment of custodianships for the benefit
14 of a minor under chapter 11.114 RCW, the Washington uniform transfers
15 to minors act, the exercise of options of the incapacitated person to
16 purchase securities or other property, the exercise of the
17 incapacitated person's right to elect options and to change
18 beneficiaries under insurance and annuity policies and the surrendering
19 of policies for their cash value, the exercise of the incapacitated
20 person's right to any elective share in the estate of the incapacitated
21 person's deceased spouse or deceased domestic partner, and the
22 renunciation or disclaimer of any interest acquired by testate or
23 intestate succession or by inter vivos transfer.

24 The guardian in the petition shall briefly outline the action or
25 application of funds for which approval is sought, the results expected
26 to be accomplished thereby and the savings expected to accrue. The
27 proposed action or application of funds may include gifts of the
28 incapacitated person's personal or real property. Gifts may be for the
29 benefit of prospective legatees, devisees, or heirs apparent of the
30 incapacitated person, or may be made to individuals or charities in
31 which the incapacitated person is believed to have an interest. Gifts
32 may or may not, in the discretion of the court, be treated as
33 advancements to donees who would otherwise inherit property from the
34 incapacitated person under the incapacitated person's will or under the
35 laws of descent and distribution. The guardian shall also indicate in
36 the petition that any planned disposition is consistent with the
37 intentions of the incapacitated person insofar as the intentions can be
38 ascertained, and if the incapacitated person's intentions cannot be

1 ascertained, the incapacitated person will be presumed to favor
2 reduction in the incidence of the various forms of taxation and the
3 partial distribution of the incapacitated person's estate as provided
4 in this section. The guardian shall not, however, be required to
5 include as a beneficiary any person whom there is reason to believe
6 would be excluded by the incapacitated person. No guardian may be
7 required to file a petition as provided in this section, and a failure
8 or refusal to so petition the court does not constitute a breach of the
9 guardian's fiduciary duties.

10 **Sec. 808.** RCW 11.94.090 and 2001 c 203 s 3 are each amended to
11 read as follows:

12 (1) A person designated in RCW 11.94.100 may file a petition
13 requesting that the court:

14 (a) Determine whether the power of attorney is in effect or has
15 terminated;

16 (b) Compel the attorney-in-fact to submit the attorney-in-fact's
17 accounts or report the attorney-in-fact's acts as attorney-in-fact to
18 the principal, the spouse or domestic partner of the principal, the
19 guardian of the person or the estate of the principal, or to any other
20 person required by the court in its discretion, if the attorney-in-fact
21 has failed to submit an accounting or report within sixty days after
22 written request from the person filing the petition, however, a
23 government agency charged with the protection of vulnerable adults may
24 file a petition upon the attorney-in-fact's refusal or failure to
25 submit an accounting upon written request and shall not be required to
26 wait sixty days;

27 (c) Ratify past acts or approve proposed acts of the attorney-in-
28 fact;

29 (d) Order the attorney-in-fact to exercise or refrain from
30 exercising authority in a power of attorney in a particular manner or
31 for a particular purpose;

32 (e) Modify the authority of an attorney-in-fact under a power of
33 attorney;

34 (f) Remove the attorney-in-fact on a determination by the court of
35 both of the following:

36 (i) The attorney-in-fact has violated or is unfit to perform the
37 fiduciary duties under the power of attorney; and

1 (ii) The removal of the attorney-in-fact is in the best interest of
2 the principal;

3 (g) Approve the resignation of the attorney-in-fact and approve the
4 final accountings of the resigning attorney-in-fact if submitted,
5 subject to any orders the court determines are necessary to protect the
6 principal's interests;

7 (h) Confirm the authority of a successor attorney-in-fact to act
8 under a power of attorney upon removal or resignation of the previous
9 attorney-in-fact;

10 (i) Compel a third person to honor the authority of an attorney-in-
11 fact, provided that a third person may not be compelled to honor the
12 agent's authority if the principal could not compel the third person to
13 act in the same circumstances;

14 (j) Order the attorney-in-fact to furnish a bond in an amount the
15 court determines to be appropriate.

16 (2) The petition shall contain a statement identifying the
17 principal's known immediate family members, and any other persons known
18 to petitioner to be interested in the principal's welfare or the
19 principal's estate, stating which of said persons have an interest in
20 the action requested in the petition and explaining the determination
21 of who is interested in the petition.

22 **Sec. 809.** RCW 11.94.100 and 2001 c 203 s 4 are each amended to
23 read as follows:

24 (1) A petition may be filed under RCW 11.94.090 by any of the
25 following persons:

26 (a) The attorney-in-fact;

27 (b) The principal;

28 (c) The spouse or domestic partner of the principal;

29 (d) The guardian of the estate or person of the principal; or

30 (e) Any other interested person, as long as the person demonstrates
31 to the court's satisfaction that the person is interested in the
32 welfare of the principal and has a good faith belief that the court's
33 intervention is necessary, and that the principal is incapacitated at
34 the time of filing the petition or otherwise unable to protect his or
35 her own interests.

36 (2) Notwithstanding RCW 11.94.080, the principal may specify in the

1 power of attorney by name certain persons who shall have no authority
2 to bring a petition under RCW 11.94.090 with respect to the power of
3 attorney. This provision is enforceable:

4 (a) If the person so named is not at the time of filing the
5 petition the guardian of the principal;

6 (b) If at the time of signing the power of attorney the principal
7 was represented by an attorney who advised the principal regarding the
8 power of attorney and who signed a certificate at the time of execution
9 of the power of attorney, stating that the attorney has advised the
10 principal concerning his or her rights, the applicable law, and the
11 effect and consequences of executing the power of attorney; or

12 (c) If (a) and (b) of this subsection do not apply, unless the
13 person so named can establish that the principal was unduly influenced
14 by another or under mistaken beliefs when excluding the person from the
15 petition process, or unless the person named is a government agency
16 charged with protection of vulnerable adults.

17 **Sec. 810.** RCW 11.94.140 and 2001 c 203 s 8 are each amended to
18 read as follows:

19 (1) The following persons are entitled to notice of hearing on any
20 petition under RCW 11.94.090:

- 21 (a) The principal;
- 22 (b) The principal's spouse or domestic partner;
- 23 (c) The attorney-in-fact;
- 24 (d) The guardian of the estate or person of the principal;
- 25 (e) Any other person identified in the petition as being interested
26 in the action requested in the petition, or identified by the court as
27 having a right to notice of the hearing. If a person would be excluded
28 from bringing a petition under RCW 11.94.100(2), then that person is
29 not entitled to notice of the hearing.

30 (2) Notwithstanding subsection (1) of this section, if the
31 whereabouts of the principal are unknown or the principal is otherwise
32 unavailable to receive notice, the court may waive the requirement of
33 notice to the principal, and if the principal's spouse is similarly
34 unavailable to receive notice, the court may waive the requirement of
35 notice to the principal's spouse.

36 (3) Notice must be given as required under chapter 11.96A RCW,

1 except that the parties entitled to notice shall be determined under
2 this section.

3 **PART IX - PROBATE AND TRUST LAW**

4 **Sec. 901.** RCW 11.02.005 and 2007 c 475 s 1 are each amended to
5 read as follows:

6 When used in this title, unless otherwise required from the
7 context:

8 (1) "Personal representative" includes executor, administrator,
9 special administrator, and guardian or limited guardian and special
10 representative.

11 (2) "Net estate" refers to the real and personal property of a
12 decedent exclusive of homestead rights, exempt property, the family
13 allowance and enforceable claims against, and debts of, the deceased or
14 the estate.

15 (3) "Representation" refers to a method of determining distribution
16 in which the takers are in unequal degrees of kinship with respect to
17 a decedent, and is accomplished as follows: After first determining
18 who, of those entitled to share in the estate, are in the nearest
19 degree of kinship, the estate is divided into equal shares, the number
20 of shares being the sum of the number of persons who survive the
21 decedent who are in the nearest degree of kinship and the number of
22 persons in the same degree of kinship who died before the decedent but
23 who left issue surviving the decedent; each share of a deceased person
24 in the nearest degree shall be divided among those of the deceased
25 person's issue who survive the decedent and have no ancestor then
26 living who is in the line of relationship between them and the
27 decedent, those more remote in degree taking together the share which
28 their ancestor would have taken had he or she survived the decedent.

29 (4) "Issue" means all the lineal descendants of an individual. An
30 adopted individual is a lineal descendant of each of his or her
31 adoptive parents and of all individuals with regard to which each
32 adoptive parent is a lineal descendant. A child conceived prior to the
33 death of a parent but born after the death of the deceased parent is
34 considered to be the surviving issue of the deceased parent for
35 purposes of this title.

1 (5) "Degree of kinship" means the degree of kinship as computed
2 according to the rules of the civil law; that is, by counting upward
3 from the intestate to the nearest common ancestor and then downward to
4 the relative, the degree of kinship being the sum of these two counts.

5 (6) "Heirs" denotes those persons, including the surviving spouse
6 or surviving domestic partner, who are entitled under the statutes of
7 intestate succession to the real and personal property of a decedent on
8 the decedent's death intestate.

9 (7) "Real estate" includes, except as otherwise specifically
10 provided herein, all lands, tenements, and hereditaments, and all
11 rights thereto, and all interest therein possessed and claimed in fee
12 simple, or for the life of a third person.

13 (8) "Will" means an instrument validly executed as required by RCW
14 11.12.020.

15 (9) "Codicil" means a will that modifies or partially revokes an
16 existing earlier will. A codicil need not refer to or be attached to
17 the earlier will.

18 (10) "Guardian" or "limited guardian" means a personal
19 representative of the person or estate of an incompetent or disabled
20 person as defined in RCW 11.88.010 and the term may be used in lieu of
21 "personal representative" wherever required by context.

22 (11) "Administrator" means a personal representative of the estate
23 of a decedent and the term may be used in lieu of "personal
24 representative" wherever required by context.

25 (12) "Executor" means a personal representative of the estate of a
26 decedent appointed by will and the term may be used in lieu of
27 "personal representative" wherever required by context.

28 (13) "Special administrator" means a personal representative of the
29 estate of a decedent appointed for limited purposes and the term may be
30 used in lieu of "personal representative" wherever required by context.

31 (14) "Trustee" means an original, added, or successor trustee and
32 includes the state, or any agency thereof, when it is acting as the
33 trustee of a trust to which chapter 11.98 RCW applies.

34 (15) "Nonprobate asset" means those rights and interests of a
35 person having beneficial ownership of an asset that pass on the
36 person's death under a written instrument or arrangement other than the
37 person's will. "Nonprobate asset" includes, but is not limited to, a
38 right or interest passing under a joint tenancy with right of

1 survivorship, joint bank account with right of survivorship, payable on
2 death or trust bank account, transfer on death security or security
3 account, deed or conveyance if possession has been postponed until the
4 death of the person, trust of which the person is grantor and that
5 becomes effective or irrevocable only upon the person's death,
6 community property agreement, individual retirement account or bond, or
7 note or other contract the payment or performance of which is affected
8 by the death of the person. "Nonprobate asset" does not include: A
9 payable-on-death provision of a life insurance policy, annuity, or
10 other similar contract, or of an employee benefit plan; a right or
11 interest passing by descent and distribution under chapter 11.04 RCW;
12 a right or interest if, before death, the person has irrevocably
13 transferred the right or interest, the person has waived the power to
14 transfer it or, in the case of contractual arrangement, the person has
15 waived the unilateral right to rescind or modify the arrangement; or a
16 right or interest held by the person solely in a fiduciary capacity.
17 For the definition of "nonprobate asset" relating to revocation of a
18 provision for a former spouse upon dissolution of marriage or
19 declaration of invalidity of marriage, RCW 11.07.010(5) applies. For
20 the definition of "nonprobate asset" relating to revocation of a
21 provision for a former spouse upon dissolution of marriage or
22 declaration of invalidity of marriage, see RCW 11.07.010(5). For the
23 definition of "nonprobate asset" relating to testamentary disposition
24 of nonprobate assets, see RCW 11.11.010(7).

25 (16) "Internal Revenue Code" means the United States Internal
26 Revenue Code of 1986, as amended or renumbered as of January 1, 2001.

27 (17) References to "section 2033A" of the Internal Revenue Code in
28 wills, trust agreements, powers of appointment, beneficiary
29 designations, and other instruments governed by or subject to this
30 title shall be deemed to refer to the comparable or corresponding
31 provisions of section 2057 of the Internal Revenue Code, as added by
32 section 6006(b) of the Internal Revenue Service Restructuring Act of
33 1998 (H.R. 2676, P.L. 105-206); and references to the section 2033A
34 "exclusion" shall be deemed to mean the section 2057 deduction.

35 (18) "Surviving spouse" or "surviving domestic partner" does not
36 include an individual whose marriage to or state registered domestic
37 partnership with the decedent has been terminated, dissolved, or
38 invalidated unless, by virtue of a subsequent marriage or state

1 registered domestic partnership, he or she is married to or in a
2 domestic partnership with the decedent at the time of death. A decree
3 of separation that does not terminate the status of (~~husband and~~
4 ~~wife~~) spouses or domestic partners is not a dissolution or
5 invalidation for purposes of this subsection.

6 Words that import the singular number may also be applied to the
7 plural of persons and things.

8 Words importing the masculine gender only may be extended to
9 females also.

10 **Sec. 902.** RCW 11.02.070 and 1998 c 292 s 504 are each amended to
11 read as follows:

12 Except as provided in RCW 41.04.273 and 11.84.025, upon the death
13 of a decedent, a one-half share of the community property shall be
14 confirmed to the surviving spouse or surviving domestic partner, and
15 the other one-half share shall be subject to testamentary disposition
16 by the decedent, or shall descend as provided in chapter 11.04 RCW.
17 The whole of the community property shall be subject to probate
18 administration for all purposes of this title, including the payment of
19 obligations and debts of the community, the award in lieu of homestead,
20 the allowance for family support, and any other matter for which the
21 community property would be responsible or liable if the decedent were
22 living.

23 **Sec. 903.** RCW 11.02.100 and 1990 c 180 s 7 are each amended to
24 read as follows:

25 Shares of record in the name of a (~~married person~~) spouse or
26 domestic partner may be transferred by such person, such person's agent
27 or attorney, without the signature of such person's spouse or domestic
28 partner. All dividends payable upon any shares of a corporation
29 standing in the name of a (~~married person~~) spouse or domestic
30 partner, shall be paid to such (~~married person~~) spouse or domestic
31 partner, such person's agent or attorney, in the same manner as if such
32 person were unmarried or not in a state registered domestic
33 partnership, and it shall not be necessary for the other spouse or
34 domestic partner to join in a receipt therefor; and any proxy or power
35 given by a (~~married person~~) spouse or domestic partner, touching any

1 shares of any corporation standing in such person's name, shall be
2 valid and binding without the signature of the other spouse or other
3 domestic partner.

4 **Sec. 904.** RCW 11.02.120 and 1990 c 180 s 9 are each amended to
5 read as follows:

6 Neither a domestic or foreign corporation or its registrar or
7 transfer agent shall be liable for transferring or causing to be
8 transferred on the books of the corporation to or pursuant to the
9 direction of the surviving spouse (~~((of a deceased husband or wife))~~) or
10 the surviving domestic partner any share or shares or other securities
11 theretofore issued by the corporation to the deceased or surviving
12 spouse or both (~~((of them))~~), or to the deceased or surviving domestic
13 partner or both, if the corporation or its registrar or transfer agent
14 shall be provided with the following:

15 (1) A copy of an agreement which shall have been entered into
16 between the spouses or between the domestic partners pursuant to RCW
17 26.16.120 and certified by the auditor of the county in this state in
18 whose office the same shall have been recorded;

19 (2) A certified copy of the death certificate of the deceased
20 spouse or deceased domestic partner;

21 (3) An affidavit of the surviving spouse or surviving domestic
22 partner that:

23 (a) The shares or other securities constituted community property
24 of the spouses or the domestic partners at date of death of the
25 deceased spouse or deceased domestic partner and their disposition is
26 controlled by the community property agreement;

27 (b) No proceedings have been instituted to contest or set aside or
28 cancel the agreement; and that

29 (c) The claims of creditors have been paid or provided for.

30 **Sec. 905.** RCW 11.04.095 and 1965 c 145 s 11.04.095 are each
31 amended to read as follows:

32 If a person dies leaving a surviving spouse or surviving domestic
33 partner and issue by a former spouse or former domestic partner and
34 leaving a will whereby all or substantially all of the deceased's
35 property passes to the surviving spouse or surviving domestic partner
36 or having before death conveyed all or substantially all his or her

1 property to the surviving spouse or surviving domestic partner, and
2 afterwards the latter dies without heirs and without disposing of his
3 or her property by will so that except for this section the same would
4 all escheat, the issue of the spouse or domestic partner first deceased
5 who survive the spouse or domestic partner last deceased shall take and
6 inherit from the spouse or domestic partner last deceased the property
7 so acquired by will or conveyance or the equivalent thereof in money or
8 other property; if such issue are all in the same degree of kinship to
9 the spouse or domestic partner first deceased they shall take equally,
10 or, if of unequal degree, then those of more remote degree shall take
11 by representation with respect to such spouse or such domestic partner
12 first deceased.

13 **Sec. 906.** RCW 11.07.010 and 2007 c 475 s 2 and 2007 c 156 s 13 are
14 each reenacted and amended to read as follows:

15 (1) This section applies to all nonprobate assets, wherever
16 situated, held at the time of entry of a decree of dissolution of
17 marriage or state registered domestic partnership or a declaration of
18 invalidity or certification of termination of a state registered
19 domestic partnership.

20 (2)(a) If a marriage or state registered domestic partnership is
21 dissolved or invalidated, or a state registered domestic partnership
22 terminated, a provision made prior to that event that relates to the
23 payment or transfer at death of the decedent's interest in a nonprobate
24 asset in favor of or granting an interest or power to the decedent's
25 former spouse or state registered domestic partner, is revoked. A
26 provision affected by this section must be interpreted, and the
27 nonprobate asset affected passes, as if the former spouse or former
28 state registered domestic partner, failed to survive the decedent,
29 having died at the time of entry of the decree of dissolution or
30 declaration of invalidity or termination of state registered domestic
31 partnership.

32 (b) This subsection does not apply if and to the extent that:

33 (i) The instrument governing disposition of the nonprobate asset
34 expressly provides otherwise;

35 (ii) The decree of dissolution, declaration of invalidity, or other
36 court order requires that the decedent maintain a nonprobate asset for
37 the benefit of a former spouse or former state registered domestic

1 partner or children of the marriage or domestic partnership, payable on
2 the decedent's death either outright or in trust, and other nonprobate
3 assets of the decedent fulfilling such a requirement for the benefit of
4 the former spouse or former state registered domestic partner or
5 children of the marriage or domestic partnership do not exist at the
6 decedent's death;

7 (iii) A court order requires that the decedent maintain a
8 nonprobate asset for the benefit of another, payable on the decedent's
9 death either outright or in a trust, and other nonprobate assets of the
10 decedent fulfilling such a requirement do not exist at the decedent's
11 death; or

12 (iv) If not for this subsection, the decedent could not have
13 effected the revocation by unilateral action because of the terms of
14 the decree, declaration, termination of state registered domestic
15 partnership, or for any other reason, immediately after the entry of
16 the decree of dissolution, declaration of invalidity, or termination of
17 state registered domestic partnership.

18 (3)(a) A payor or other third party in possession or control of a
19 nonprobate asset at the time of the decedent's death is not liable for
20 making a payment or transferring an interest in a nonprobate asset to
21 a decedent's former spouse or state registered domestic partner, whose
22 interest in the nonprobate asset is revoked under this section, or for
23 taking another action in reliance on the validity of the instrument
24 governing disposition of the nonprobate asset, before the payor or
25 other third party has actual knowledge of the dissolution or other
26 invalidation of marriage or termination of the state registered
27 domestic partnership. A payor or other third party is liable for a
28 payment or transfer made or other action taken after the payor or other
29 third party has actual knowledge of a revocation under this section.

30 (b) This section does not require a payor or other third party to
31 pay or transfer a nonprobate asset to a beneficiary designated in a
32 governing instrument affected by the dissolution or other invalidation
33 of marriage or termination of state registered domestic partnership, or
34 to another person claiming an interest in the nonprobate asset, if the
35 payor or third party has actual knowledge of the existence of a dispute
36 between the former spouse or former state registered domestic partner,
37 and the beneficiaries or other persons concerning rights of ownership
38 of the nonprobate asset as a result of the application of this section

1 among the former spouse or former state registered domestic partner,
2 and the beneficiaries or among other persons, or if the payor or third
3 party is otherwise uncertain as to who is entitled to the nonprobate
4 asset under this section. In such a case, the payor or third party
5 may, without liability, notify in writing all beneficiaries or other
6 persons claiming an interest in the nonprobate asset of either the
7 existence of the dispute or its uncertainty as to who is entitled to
8 payment or transfer of the nonprobate asset. The payor or third party
9 may also, without liability, refuse to pay or transfer a nonprobate
10 asset in such a circumstance to a beneficiary or other person claiming
11 an interest until the time that either:

12 (i) All beneficiaries and other interested persons claiming an
13 interest have consented in writing to the payment or transfer; or

14 (ii) The payment or transfer is authorized or directed by a court
15 of proper jurisdiction.

16 (c) Notwithstanding subsections (1) and (2) of this section and (a)
17 and (b) of this subsection, a payor or other third party having actual
18 knowledge of the existence of a dispute between beneficiaries or other
19 persons concerning rights to a nonprobate asset as a result of the
20 application of this section may condition the payment or transfer of
21 the nonprobate asset on execution, in a form and with security
22 acceptable to the payor or other third party, of a bond in an amount
23 that is double the fair market value of the nonprobate asset at the
24 time of the decedent's death or the amount of an adverse claim,
25 whichever is the lesser, or of a similar instrument to provide security
26 to the payor or other third party, indemnifying the payor or other
27 third party for any liability, loss, damage, costs, and expenses for
28 and on account of payment or transfer of the nonprobate asset.

29 (d) As used in this subsection, "actual knowledge" means, for a
30 payor or other third party in possession or control of the nonprobate
31 asset at or following the decedent's death, written notice to the payor
32 or other third party, or to an officer of a payor or third party in the
33 course of his or her employment, received after the decedent's death
34 and within a time that is sufficient to afford the payor or third party
35 a reasonable opportunity to act upon the knowledge. The notice must
36 identify the nonprobate asset with reasonable specificity. The notice
37 also must be sufficient to inform the payor or other third party of the
38 revocation of the provisions in favor of the decedent's spouse or state

1 registered domestic partner, by reason of the dissolution or
2 invalidation of marriage or termination of state registered domestic
3 partnership, or to inform the payor or third party of a dispute
4 concerning rights to a nonprobate asset as a result of the application
5 of this section. Receipt of the notice for a period of more than
6 thirty days is presumed to be received within a time that is sufficient
7 to afford the payor or third party a reasonable opportunity to act upon
8 the knowledge, but receipt of the notice for a period of less than five
9 business days is presumed not to be a sufficient time for these
10 purposes. These presumptions may be rebutted only by clear and
11 convincing evidence to the contrary.

12 (4)(a) A person who purchases a nonprobate asset from a former
13 spouse, former state registered domestic partner, or other person, for
14 value and without actual knowledge, or who receives from a former
15 spouse, former state registered domestic partner, or other person
16 payment or transfer of a nonprobate asset without actual knowledge and
17 in partial or full satisfaction of a legally enforceable obligation, is
18 neither obligated under this section to return the payment, property,
19 or benefit nor is liable under this section for the amount of the
20 payment or the value of the nonprobate asset. However, a former
21 spouse, former state registered domestic partner, or other person who,
22 with actual knowledge, not for value, or not in satisfaction of a
23 legally enforceable obligation, receives payment or transfer of a
24 nonprobate asset to which that person is not entitled under this
25 section is obligated to return the payment or nonprobate asset, or is
26 personally liable for the amount of the payment or value of the
27 nonprobate asset, to the person who is entitled to it under this
28 section.

29 (b) As used in this subsection, "actual knowledge" means, for a
30 person described in (a) of this subsection who purchases or receives a
31 nonprobate asset from a former spouse, former state registered domestic
32 partner, or other person, personal knowledge or possession of documents
33 relating to the revocation upon dissolution or invalidation of marriage
34 of provisions relating to the payment or transfer at the decedent's
35 death of the nonprobate asset, received within a time after the
36 decedent's death and before the purchase or receipt that is sufficient
37 to afford the person purchasing or receiving the nonprobate asset
38 reasonable opportunity to act upon the knowledge. Receipt of the

1 personal knowledge or possession of the documents for a period of more
2 than thirty days is presumed to be received within a time that is
3 sufficient to afford the payor or third party a reasonable opportunity
4 to act upon the knowledge, but receipt of the notice for a period of
5 less than five business days is presumed not to be a sufficient time
6 for these purposes. These presumptions may be rebutted only by clear
7 and convincing evidence to the contrary.

8 (5) As used in this section, "nonprobate asset" means those rights
9 and interests of a person having beneficial ownership of an asset that
10 pass on the person's death under only the following written instruments
11 or arrangements other than the decedent's will:

12 (a) A payable-on-death provision of a life insurance policy,
13 employee benefit plan, annuity or similar contract, or individual
14 retirement account, unless provided otherwise by controlling federal
15 law;

16 (b) A payable-on-death, trust, or joint with right of survivorship
17 bank account;

18 (c) A trust of which the person is a grantor and that becomes
19 effective or irrevocable only upon the person's death;

20 (d) Transfer on death beneficiary designations of a transfer on
21 death or pay on death security, or joint tenancy or joint tenancy with
22 right of survivorship designations of a security, if such designations
23 are authorized under Washington law;

24 (e) A transfer on death, pay on death, joint tenancy, or joint
25 tenancy with right of survivorship brokerage account;

26 (f) Unless otherwise specifically provided therein, a contract
27 wherein payment or performance under that contract is affected by the
28 death of the person; or

29 (g) Unless otherwise specifically provided therein, any other
30 written instrument of transfer, within the meaning of RCW 11.02.091(3),
31 containing a provision for the nonprobate transfer of an asset at
32 death.

33 For the general definition in this title of "nonprobate asset," see
34 RCW 11.02.005(15) and for the definition of "nonprobate asset" relating
35 to testamentary disposition of nonprobate assets, see RCW 11.11.010(7).
36 For the purposes of this chapter, a "bank account" includes an account
37 into or from which cash deposits and withdrawals can be made, and
38 includes demand deposit accounts, time deposit accounts, money market

1 accounts, or certificates of deposit, maintained at a bank, savings and
2 loan association, credit union, brokerage house, or similar financial
3 institution.

4 (6) This section is remedial in nature and applies as of July 25,
5 1993, to decrees of dissolution and declarations of invalidity entered
6 after July 24, 1993, and this section applies as of January 1, 1995, to
7 decrees of dissolution and declarations of invalidity entered before
8 July 25, 1993.

9 **Sec. 907.** RCW 11.08.300 and 1990 c 225 s 3 are each amended to
10 read as follows:

11 Escheat property may be transferred to the department of revenue
12 under the provisions of RCW 11.62.005 through 11.62.020. The
13 department of revenue shall furnish proof of death and an affidavit
14 made by the department which meets the requirements of RCW 11.62.010 to
15 any person who is indebted to or has possession of any personal
16 property belonging to the decedent or to the decedent and his or her
17 surviving spouse or surviving domestic partner as a community, which
18 debt or personal property is an asset which is subject to probate.
19 Upon receipt of such proof of death and affidavit, the person shall pay
20 the indebtedness or deliver the personal property, or as much of either
21 as is claimed, to the department of revenue pursuant to RCW 11.62.010.

22 The department of revenue shall file a copy of its affidavit made
23 pursuant to chapter 11.62 RCW with the clerk of the court where any
24 probate administration of the decedent has been commenced, or, if no
25 probate administration has been commenced, then with the clerk of the
26 court of any county provided by law as a place for probate
27 administration of the estate of such person. The affidavit shall be
28 indexed under the name of the decedent in the probate index upon
29 payment of a fee of two dollars. Any claimant to escheated funds shall
30 have seven years from the filing of the affidavit by the department of
31 revenue within which to file the claim. The claim shall be filed with
32 the clerk of the court where the affidavit of the department of revenue
33 was filed, and a copy served upon the department of revenue, together
34 with twenty days notice of a hearing to be held thereon, and the
35 provisions of RCW 11.08.250 through 11.08.280 shall apply.

1 **Sec. 908.** RCW 11.10.010 and 1994 c 221 s 5 are each amended to
2 read as follows:

3 (1) Except as provided in subsection (2) of this section, property
4 of a decedent abates, without preference as between real and personal
5 property, in the following order:

- 6 (a) Intestate property;
- 7 (b) Residuary gifts;
- 8 (c) General gifts;
- 9 (d) Specific gifts.

10 For purposes of abatement a demonstrative gift, defined as a
11 general gift charged on any specific property or fund, is deemed a
12 specific gift to the extent of the value of the property or fund on
13 which it is charged, and a general gift to the extent of a failure or
14 insufficiency of that property or fund. Abatement within each
15 classification is in proportion to the amounts of property each of the
16 beneficiaries would have received if full distribution of the property
17 had been made in accordance with the terms of the will.

18 (2) If the will expresses an order of abatement, or if the
19 testamentary plan or the express or implied purpose of the devise would
20 be defeated by the order of abatement stated in subsection (1) of this
21 section, a gift abates as may be found necessary to give effect to the
22 intention of the testator.

23 (3) If the subject of a preferred gift is sold, diminished, or
24 exhausted incident to administration, not including satisfaction of
25 debts or liabilities according to their community or separate status
26 under RCW 11.10.030, abatement must be achieved by appropriate
27 adjustments in, or contribution from, other interests in the remaining
28 assets.

29 (4) To the extent that the whole of the community property is
30 subject to abatement, the shares of the decedent and of the surviving
31 spouse or surviving domestic partner in the community property abate
32 equally.

33 (5) If required under RCW 11.10.040, nonprobate assets must abate
34 with those disposed of under the will and passing by intestacy.

35 **Sec. 909.** RCW 11.11.010 and 1998 c 292 s 104 are each amended to
36 read as follows:

1 The definitions in this section apply throughout this chapter
2 unless the context clearly requires otherwise.

3 (1)(a) "Actual knowledge" means:

4 (i) For a financial institution, whether acting as personal
5 representative or otherwise, or other third party in possession or
6 control of a nonprobate asset, receipt of written notice that: (A)
7 Complies with RCW 11.11.050; (B) pertains to the testamentary
8 disposition or ownership of a nonprobate asset in its possession or
9 control; and (C) is received by the financial institution or third
10 party after the death of the owner in a time sufficient to afford the
11 financial institution or third party a reasonable opportunity to act
12 upon the knowledge; and

13 (ii) For a personal representative that is not a financial
14 institution, personal knowledge or possession of documents relating to
15 the testamentary disposition or ownership of a nonprobate asset of the
16 owner sufficient to afford the personal representative reasonable
17 opportunity to act upon the knowledge, including reasonable opportunity
18 for the personal representative to provide the written notice under RCW
19 11.11.050.

20 (b) For the purposes of (a) of this subsection, notice of more than
21 thirty days is presumed to be notice that is sufficient to afford the
22 party a reasonable opportunity to act upon the knowledge, but notice of
23 less than five business days is presumed not to be a sufficient notice
24 for these purposes. These presumptions may be rebutted only by clear
25 and convincing evidence to the contrary.

26 (2) "Beneficiary" means the person designated to receive a
27 nonprobate asset upon the death of the owner by means other than the
28 owner's will.

29 (3) "Broker" means a person defined as a broker or dealer under the
30 federal securities laws.

31 (4) "Date of will" means, as to any nonprobate asset, the date of
32 signature of the will or codicil that refers to the asset and disposes
33 of it.

34 (5) "Designate" means a written means by which the owner selects a
35 beneficiary, including but not limited to instruments under contractual
36 arrangements and registration of accounts, and "designation" means the
37 selection.

1 (6) "Financial institution" means: A bank, trust company, mutual
2 savings bank, savings and loan association, credit union, broker, or
3 issuer of stock or its transfer agent.

4 (7)(a) "Nonprobate asset" means a nonprobate asset within the
5 meaning of RCW 11.02.005, but excluding the following:

6 (i) A right or interest in real property passing under a joint
7 tenancy with right of survivorship;

8 (ii) A deed or conveyance for which possession has been postponed
9 until the death of the owner;

10 (iii) A right or interest passing under a community property
11 agreement; and

12 (iv) An individual retirement account or bond.

13 (b) For the definition of "nonprobate asset" relating to revocation
14 of a provision for a former spouse or former domestic partner upon
15 dissolution of marriage or state registered domestic partnership or
16 declaration of invalidity of marriage or state registered domestic
17 partnership, see RCW 11.07.010(5).

18 (8) "Owner" means a person who, during life, has beneficial
19 ownership of the nonprobate asset.

20 (9) "Request" means a request by the beneficiary for transfer of a
21 nonprobate asset after the death of the owner, if it complies with all
22 conditions of the arrangement, including reasonable special
23 requirements concerning necessary signatures and regulations of the
24 financial institution or other third party, or by the personal
25 representative of the owner's estate or the testamentary beneficiary,
26 if it complies with the owner's will and any additional conditions of
27 the financial institution or third party for such transfer.

28 (10) "Testamentary beneficiary" means a person named under the
29 owner's will to receive a nonprobate asset under this chapter,
30 including but not limited to the trustee of a testamentary trust.

31 (11) "Third party" means a person, including a financial
32 institution, having possession of or control over a nonprobate asset at
33 the death of the owner, including the trustee of a revocable living
34 trust and surviving joint tenant or tenants.

35 **Sec. 910.** RCW 11.12.051 and 1994 c 221 s 11 are each amended to
36 read as follows:

37 (1) If, after making a will, the testator's marriage or domestic

1 partnership is dissolved (~~(or)~~), invalidated, or terminated, all
2 provisions in the will in favor of or granting any interest or power to
3 the testator's former spouse or former domestic partner are revoked,
4 unless the will expressly provides otherwise. Provisions affected by
5 this section must be interpreted, and property affected passes, as if
6 the former spouse or former domestic partner failed to survive the
7 testator, having died at the time of entry of the decree of dissolution
8 or declaration of invalidity. Provisions revoked by this section are
9 revived by the testator's remarriage to the former spouse or
10 reregistration of the domestic partnership with the former domestic
11 partner. Revocation of certain nonprobate transfers is provided under
12 RCW 11.07.010.

13 (2) This section is remedial in nature and applies to decrees of
14 dissolution and declarations of invalidity entered before, on, or after
15 January 1, 1995.

16 **Sec. 911.** RCW 11.12.095 and 1994 c 221 s 10 are each amended to
17 read as follows:

18 (1) If a will fails to name or provide for a spouse or domestic
19 partner of the decedent whom the decedent marries or enters into a
20 domestic partnership after the will's execution and who survives the
21 decedent, referred to in this section as an "omitted spouse" or
22 "omitted domestic partner," the spouse or domestic partner must receive
23 a portion of the decedent's estate as provided in subsection (3) of
24 this section, unless it appears either from the will or from other
25 clear and convincing evidence that the failure was intentional.

26 (2) In determining whether an omitted spouse or omitted domestic
27 partner has been named or provided for, the following rules apply:

28 (a) A spouse or domestic partner identified in a will by name is
29 considered named whether identified as a spouse or domestic partner or
30 in any other manner.

31 (b) A reference in a will to the decedent's future spouse or
32 spouses or future domestic partner or partners, or words of similar
33 import, constitutes a naming of a spouse or domestic partner whom the
34 decedent later marries or with whom the decedent enters into a domestic
35 partnership. A reference to another class such as the decedent's heirs
36 or family does not constitute a naming of a spouse or domestic partner
37 who falls within the class.

1 (c) A nominal interest in an estate does not constitute a provision
2 for a spouse or domestic partner receiving the interest.

3 (3) The omitted spouse or omitted domestic partner must receive an
4 amount equal in value to that which the spouse or domestic partner
5 would have received under RCW 11.04.015 if the decedent had died
6 intestate, unless the court determines on the basis of clear and
7 convincing evidence that a smaller share, including no share at all, is
8 more in keeping with the decedent's intent. In making the
9 determination the court may consider, among other things, the spouse's
10 or domestic partner's property interests under applicable community
11 property or quasi-community property laws, the various elements of the
12 decedent's dispositive scheme, and a marriage settlement or settlement
13 in a domestic partnership or other provision and provisions for the
14 omitted spouse or omitted domestic partner outside the decedent's will.

15 (4) In satisfying a share provided by this section, the bequests
16 made by the will abate as provided in chapter 11.10 RCW.

17 **Sec. 912.** RCW 11.12.180 and 1994 c 221 s 17 are each amended to
18 read as follows:

19 The Rule in Shelley's Case is abolished as a rule of law and as a
20 rule of construction. If an applicable statute or a governing
21 instrument calls for a future distribution to or creates a future
22 interest in a designated individual's "heirs," "heirs at law," "next of
23 kin," "relatives," or "family," or language of similar import, the
24 property passes to those persons, including the state under chapter
25 11.08 RCW, that would succeed to the designated individual's estate
26 under chapter 11.04 RCW. The property must pass to those persons as if
27 the designated individual had died when the distribution or transfer of
28 the future interest was to take effect in possession or enjoyment. For
29 purposes of this section and RCW 11.12.185, the designated individual's
30 surviving spouse or surviving domestic partner is deemed to be an heir,
31 regardless of whether the surviving spouse or surviving domestic
32 partner has remarried or entered into a subsequent domestic
33 partnership.

34 **Sec. 913.** RCW 11.28.030 and 1965 c 145 s 11.28.030 are each
35 amended to read as follows:

36 A surviving spouse or surviving domestic partner shall be entitled

1 to administer upon the community property, notwithstanding any
2 provisions of the will to the contrary, if the court find such spouse
3 or such domestic partner to be otherwise qualified; but if such
4 surviving spouse or surviving domestic partner do not make application
5 for such appointment within forty days immediately following the death
6 of the deceased spouse or deceased domestic partner, he or she shall be
7 considered as having waived his or her right to administer upon such
8 community property. If any person, other than the surviving spouse or
9 surviving domestic partner, make application for letters testamentary
10 on such property, prior to the expiration of such forty days, then the
11 court, before making any such appointment, shall require notice of such
12 application to be given the said surviving spouse or surviving domestic
13 partner, for such time and in such manner as the court may determine,
14 unless such applicant show to the satisfaction of the court that there
15 is no surviving spouse or surviving domestic partner or that he or she
16 has in writing waived the right to administer upon such community
17 property.

18 **Sec. 914.** RCW 11.28.131 and 1974 ex.s. c 117 s 44 are each amended
19 to read as follows:

20 When a petition for general letters of administration or for
21 letters of administration with the will annexed shall be filed, the
22 matter may (~~(be)~~) be heard forthwith, appointment made and letters of
23 administration issued: PROVIDED, That if there be a surviving spouse
24 or surviving domestic partner and a petition is presented by anyone
25 other than the surviving spouse or surviving domestic partner, or any
26 person designated by the surviving spouse or surviving domestic partner
27 to serve as personal representative on his or her behalf, notice to the
28 surviving spouse or surviving domestic partner shall be given of the
29 time and place of such hearing at least ten days before the hearing,
30 unless the surviving spouse or surviving domestic partner shall waive
31 notice of the hearing in writing filed in the cause.

32 **Sec. 915.** RCW 11.28.185 and 1977 ex.s. c 234 s 5 are each amended
33 to read as follows:

34 When the terms of the decedent's will manifest an intent that the
35 personal representative appointed to administer the estate shall not be
36 required to furnish bond or other security, or when the personal

1 representative is the surviving spouse or surviving domestic partner of
2 the decedent and it appears to the court that the entire estate, after
3 provision for expenses and claims of creditors, will be distributable
4 to such spouse or surviving domestic partner, then such personal
5 representative shall not be required to give bond or other security as
6 a condition of appointment. In all cases where a bank or trust company
7 authorized to act as personal representative is appointed as personal
8 representative, no bond shall be required. In all other cases, unless
9 waived by the court, the personal representative shall give such bond
10 or other security, in such amount and with such surety or sureties, as
11 the court may direct.

12 Every person required to furnish bond must, before receiving
13 letters testamentary or of administration, execute a bond to the state
14 of Washington conditioned that the personal representative shall
15 faithfully execute the duty of the trust according to law.

16 The court may at any time after appointment of the personal
17 representative require said personal representative to give a bond or
18 additional bond, the same to be conditioned and to be approved as
19 provided in this section; or the court may allow a reduction of the
20 bond upon a proper showing.

21 In lieu of bond, the court may in its discretion, substitute other
22 security or financial arrangements, such as provided under RCW
23 11.88.105, or as the court may deem adequate to protect the assets of
24 the estate.

25 **Sec. 916.** RCW 11.54.010 and 1997 c 252 s 48 are each amended to
26 read as follows:

27 (1) Subject to RCW 11.54.030, the surviving spouse or surviving
28 domestic partner of a decedent may petition the court for an award from
29 the property of the decedent. If the decedent is survived by children
30 of the decedent who are not also the children of the surviving spouse
31 or surviving domestic partner, on petition of such a child the court
32 may divide the award between the surviving spouse or surviving domestic
33 partner and all or any of such children as it deems appropriate. If
34 there is not a surviving spouse or surviving domestic partner, the
35 minor children of the decedent may petition for an award.

36 (2) The award may be made from either the community property or

1 separate property of the decedent. Unless otherwise ordered by the
2 court, the probate and nonprobate assets of the decedent abate in
3 accordance with chapter 11.10 RCW in satisfaction of the award.

4 (3) The award may be made whether or not probate proceedings have
5 been commenced in the state of Washington. The court may not make this
6 award unless the petition for the award is filed before the earliest
7 of:

8 (a) Eighteen months from the date of the decedent's death if within
9 twelve months of the decedent's death either:

10 (i) A personal representative has been appointed; or

11 (ii) A notice agent has filed a declaration and oath as required in
12 RCW 11.42.010(3)(a)(ii); or

13 (b) The termination of any probate proceeding for the decedent's
14 estate that has been commenced in the state of Washington; or

15 (c) Six years from the date of the death of the decedent.

16 **Sec. 917.** RCW 11.54.020 and 1997 c 252 s 49 are each amended to
17 read as follows:

18 The amount of the basic award shall be the amount specified in RCW
19 6.13.030(2) with regard to lands. If an award is divided between a
20 surviving spouse or surviving domestic partner and the decedent's
21 children who are not the children of the surviving spouse or surviving
22 domestic partner, the aggregate amount awarded to all the claimants
23 under this section shall be the amount specified in RCW 6.13.030(2)
24 with respect to lands. The amount of the basic award may be increased
25 or decreased in accordance with RCW 11.54.040 and 11.54.050.

26 **Sec. 918.** RCW 11.54.030 and 1997 c 252 s 50 are each amended to
27 read as follows:

28 (1) The court may not make an award unless the court finds that the
29 funeral expenses, expenses of last sickness, and expenses of
30 administration have been paid or provided for.

31 (2) The court may not make an award to a surviving spouse or
32 surviving domestic partner or child who has participated, either as a
33 principal or as an accessory before the fact, in the willful and
34 unlawful killing of the decedent.

1 **Sec. 919.** RCW 11.54.040 and 1997 c 252 s 51 are each amended to
2 read as follows:

3 (1) If it is demonstrated to the satisfaction of the court with
4 clear, cogent, and convincing evidence that a claimant's present and
5 reasonably anticipated future needs during the pendency of any probate
6 proceedings in the state of Washington with respect to basic
7 maintenance and support will not otherwise be provided for from other
8 resources, and that the award would not be inconsistent with the
9 decedent's intentions, the amount of the award may be increased in an
10 amount the court determines to be appropriate.

11 (2) In determining the needs of the claimant, the court shall
12 consider, without limitation, the resources available to the claimant
13 and the claimant's dependents, and the resources reasonably expected to
14 be available to the claimant and the claimant's dependents during the
15 pendency of the probate, including income related to present or future
16 employment and benefits flowing from the decedent's probate and
17 nonprobate estate.

18 (3) In determining the intentions of the decedent, the court shall
19 consider, without limitation:

20 (a) Provisions made for the claimant by the decedent under the
21 terms of the decedent's will or otherwise;

22 (b) Provisions made for third parties or other entities under the
23 decedent's will or otherwise that would be affected by an increased
24 award;

25 (c) If the claimant is the surviving spouse or surviving domestic
26 partner, the duration and status of the marriage or the state
27 registered domestic partnership of the decedent to the claimant at the
28 time of the decedent's death;

29 (d) The effect of any award on the availability of any other
30 resources or benefits to the claimant;

31 (e) The size and nature of the decedent's estate; and

32 (f) Oral or written statements made by the decedent that are
33 otherwise admissible as evidence.

34 The fact that the decedent has named beneficiaries other than the
35 claimant as recipients of the decedent's estate is not of itself
36 adequate to evidence such an intent as would prevent the award of an
37 amount in excess of that provided for in RCW 6.13.030(2) with respect
38 to lands.

1 (4)(a) A petition for an increased award may only be made if a
2 petition for an award has been granted under RCW 11.54.010. The
3 request for an increased award may be made in conjunction with the
4 petition for an award under RCW 11.54.010.

5 (b) Subject to (a) of this subsection, a request for an increased
6 award may be made at any time during the pendency of the probate
7 proceedings. A request to modify an increased award may also be made
8 at any time during the pendency of the probate proceedings by a person
9 having an interest in the decedent's estate that will be directly
10 affected by the requested modification.

11 **Sec. 920.** RCW 11.54.050 and 1997 c 252 s 52 are each amended to
12 read as follows:

13 (1) The court may decrease the amount of the award below the amount
14 provided in RCW 11.54.020 in the exercise of its discretion if the
15 recipient is entitled to receive probate or nonprobate property,
16 including insurance, by reason of the death of the decedent. In such
17 a case the award must be decreased by no more than the value of such
18 other property as is received by reason of the death of the decedent.
19 The court shall consider the factors presented in RCW 11.54.040(2) in
20 determining the propriety of the award and the proper amount of the
21 award, if any.

22 (2) An award to a surviving spouse or surviving domestic partner is
23 also discretionary and the amount otherwise allowable may be reduced
24 if: (a) The decedent is survived by children who are not the children
25 of the surviving spouse or surviving domestic partner and the award
26 would decrease amounts otherwise distributable to such children; or (b)
27 the award would have the effect of reducing amounts otherwise
28 distributable to any of the decedent's minor children. In either case
29 the court shall consider the factors presented in RCW 11.54.040 (2) and
30 (3) and whether the needs of the minor children with respect to basic
31 maintenance and support are and will be adequately provided for, both
32 during and after the pendency of any probate proceedings if such
33 proceedings are pending, considering support from any source, including
34 support from the surviving spouse or surviving domestic partner.

35 **Sec. 921.** RCW 11.54.070 and 1998 c 292 s 201 are each amended to
36 read as follows:

1 (1) Except as provided in RCW 11.54.060(2), property awarded and
2 cash paid under this chapter is immune from all debts, including
3 judgments and judgment liens, of the decedent and of the surviving
4 spouse or surviving domestic partner existing at the time of death.

5 (2) Both the decedent's and the surviving spouse's or surviving
6 domestic partner's interests in any community property awarded to the
7 spouse or domestic partner under this chapter are immune from the
8 claims of creditors.

9 **Sec. 922.** RCW 11.62.005 and 2006 c 360 s 15 are each amended to
10 read as follows:

11 As used in this chapter, the following terms shall have the
12 meanings indicated.

13 (1) "Personal property" shall include any tangible personal
14 property, any instrument evidencing a debt, obligation, stock, chose in
15 action, license or ownership, any debt or any other intangible
16 property.

17 (2)(a) "Successor" and "successors" shall mean (subject to
18 subsection (2)(b) of this section):

19 (i) That person or those persons who are entitled to the claimed
20 property pursuant to the terms and provisions of the last will and
21 testament of the decedent or by virtue of the laws of intestate
22 succession contained in this title; and/or

23 (ii) The surviving spouse or surviving domestic partner of the
24 decedent to the extent that the surviving spouse or surviving domestic
25 partner is entitled to the property claimed as his or her undivided
26 one-half interest in the community property of said spouse or said
27 domestic partner and the decedent; and/or

28 (iii) The department of social and health services, to the extent
29 of funds expended or paid, in the case of claims provided under RCW
30 43.20B.080; and/or

31 (iv) This state, in the case of escheat property.

32 (b) Any person claiming to be a successor solely by reason of being
33 a creditor of the decedent or of the decedent's estate, except for the
34 state as set forth in (a)(iii) and (iv) of this subsection, shall be
35 excluded from the definition of "successor".

36 (3) "Person" shall mean any individual or organization,
37 specifically including but not limited to a bank, credit union,

1 brokerage firm or stock transfer agent, corporation, government or
2 governmental subdivision or agency, business trust, estate, trust,
3 partnership or association, two or more persons having a joint or
4 common interest, or any other legal or commercial entity.

5 **Sec. 923.** RCW 11.62.010 and 2006 c 360 s 16 are each amended to
6 read as follows:

7 (1) At any time after forty days from the date of a decedent's
8 death, any person who is indebted to or who has possession of any
9 personal property belonging to the decedent or to the decedent and his
10 or her surviving spouse or surviving domestic partner as a community,
11 which debt or personal property is an asset which is subject to
12 probate, shall pay such indebtedness or deliver such personal property,
13 or so much of either as is claimed, to a person claiming to be a
14 successor of the decedent upon receipt of proof of death and of an
15 affidavit made by said person which meets the requirements of
16 subsection (2) of this section.

17 (2) An affidavit which is to be made pursuant to this section shall
18 state:

19 (a) The claiming successor's name and address, and that the
20 claiming successor is a "successor" as defined in RCW 11.62.005;

21 (b) That the decedent was a resident of the state of Washington on
22 the date of his or her death;

23 (c) That the value of the decedent's entire estate subject to
24 probate, not including the surviving spouse's or surviving domestic
25 partner's community property interest in any assets which are subject
26 to probate in the decedent's estate, wherever located, less liens and
27 encumbrances, does not exceed one hundred thousand dollars;

28 (d) That forty days have elapsed since the death of the decedent;

29 (e) That no application or petition for the appointment of a
30 personal representative is pending or has been granted in any
31 jurisdiction;

32 (f) That all debts of the decedent including funeral and burial
33 expenses have been paid or provided for;

34 (g) A description of the personal property and the portion thereof
35 claimed, together with a statement that such personal property is
36 subject to probate;

1 (h) That the claiming successor has given written notice, either by
2 personal service or by mail, identifying his or her claim, and
3 describing the property claimed, to all other successors of the
4 decedent, and that at least ten days have elapsed since the service or
5 mailing of such notice; and

6 (i) That the claiming successor is either personally entitled to
7 full payment or delivery of the property claimed or is entitled to full
8 payment or delivery thereof on the behalf and with the written
9 authority of all other successors who have an interest therein.

10 (3) A transfer agent of any security shall change the registered
11 ownership of the security claimed from the decedent to the person
12 claiming to be the successor with respect to such security upon the
13 presentation of proof of death and of an affidavit made by such person
14 which meets the requirements of subsection (2) of this section. Any
15 governmental agency required to issue certificates of ownership or of
16 license registration to personal property shall issue a new certificate
17 of ownership or of license registration to a person claiming to be a
18 successor of the decedent upon receipt of proof of death and of an
19 affidavit made by such person which meets the requirements of
20 subsection (2) of this section.

21 (4) No release from any Washington state or local taxing authority
22 may be required before any assets or debts are paid or delivered to a
23 successor of a decedent as required under this section.

24 (5) A copy of the affidavit, including the decedent's social
25 security number, shall be mailed to the state of Washington, department
26 of social and health services, office of financial recovery.

27 **Sec. 924.** RCW 11.62.030 and 1980 c 41 s 10 are each amended to
28 read as follows:

29 On the death of any member of any credit union organized under
30 chapter 31.12 RCW or federal law, such credit union may pay to the
31 surviving spouse or surviving domestic partner the moneys of such
32 member on deposit to the credit of said deceased member, including
33 moneys deposited as shares in said credit union, in cases where the
34 amount of deposit does not exceed the sum of one thousand dollars, upon
35 receipt of an affidavit from the surviving spouse or surviving domestic
36 partner to the effect that the member died and no executor or
37 administrator has been appointed for the member's estate, and the

1 member had on deposit in said credit union money not exceeding the sum
2 of one thousand dollars. The payment of such deposit made in good
3 faith to the spouse or the domestic partner making the affidavit shall
4 be a full acquittance and release of the credit union for the amount of
5 the deposit so paid.

6 No probate proceeding shall be necessary to establish the right of
7 said surviving spouse to withdraw said deposits upon the filing of said
8 affidavit: PROVIDED, That whenever a personal representative is
9 appointed in an estate where a withdrawal of deposits has been had in
10 compliance with this section, the spouse so withdrawing said deposits
11 shall account for the same to the personal representative. The credit
12 union may also pay out the moneys on deposit to the credit of the
13 deceased upon presentation of an affidavit as provided in RCW
14 11.62.010, as now or hereafter amended.

15 **Sec. 925.** RCW 11.68.011 and 1997 c 252 s 59 are each amended to
16 read as follows:

17 (1) A personal representative may petition the court for
18 nonintervention powers, whether the decedent died testate or intestate.

19 (2) Unless the decedent has specified in the decedent's will, if
20 any, that the court not grant nonintervention powers to the personal
21 representative, the court shall grant nonintervention powers to a
22 personal representative who petitions for the powers if the court
23 determines that the decedent's estate is solvent, taking into account
24 probate and nonprobate assets, and that:

25 (a) The petitioning personal representative was named in the
26 decedent's probated will as the personal representative;

27 (b) The decedent died intestate, the petitioning personal
28 representative is the decedent's surviving spouse or surviving domestic
29 partner, the decedent's estate is composed of community property only,
30 and the decedent had no issue: (i) Who is living or in gestation on
31 the date of the petition; (ii) whose identity is reasonably
32 ascertainable on the date of the petition; and (iii) who is not also
33 the issue of the petitioning spouse or petitioning domestic partner; or

34 (c) The personal representative was not a creditor of the decedent
35 at the time of the decedent's death and the administration and
36 settlement of the decedent's will or estate with nonintervention powers
37 would be in the best interests of the decedent's beneficiaries and

1 creditors. However, the administration and settlement of the
2 decedent's will or estate with nonintervention powers will be presumed
3 to be in the beneficiaries' and creditors' best interest until a person
4 entitled to notice under RCW 11.68.041 rebuts that presumption by
5 coming forward with evidence that the grant of nonintervention powers
6 would not be in the beneficiaries' or creditors' best interests.

7 (3) The court may base its findings of facts necessary for the
8 grant of nonintervention powers on: (a) Statements of witnesses
9 appearing before the court; (b) representations contained in a verified
10 petition for nonintervention powers, in an inventory made and returned
11 upon oath into the court, or in an affidavit filed with the court; or
12 (c) other proof submitted to the court.

13 **Sec. 926.** RCW 11.80.130 and 1972 ex.s. c 83 s 3 are each amended
14 to read as follows:

15 (1) If the spouse or domestic partner of any absentee owner, or his
16 or her next of kin, if said absentee has no spouse or domestic partner,
17 shall wish to sell or transfer any property of the absentee which has
18 a gross value of less than five thousand dollars, or shall require the
19 consent of the absentee in any matter regarding the absentee's
20 children, or any other matter in which the gross value of the subject
21 matter is less than five thousand dollars, such spouse or such domestic
22 partner or next of kin may apply to the superior court for an order
23 authorizing said sale, transfer, or consent without opening a full
24 trustee proceeding as provided in this chapter. The applicant may make
25 the application without the assistance of an attorney. Said
26 application shall be made by petition on the following form, which form
27 shall be made readily available to the applicant by the clerk of the
28 superior court.

29 IN THE SUPERIOR COURT
30 OF THE STATE OF WASHINGTON IN AND FOR
31 THE COUNTY OF

32 }
33 *Plaintiff,* }
34 vs. } No.
35 } PETITION FOR
36 *Defendant.* } SUMMARY

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..... RELIEF
Petitioner,, whose residence is, and
....., Washington, and who is the of the
absentee,, states that the absentee has been
..... since, when Petitioner
desires to sell/transfer of the value of,
because The terms of the sale/transfer are
..... Petitioner requires the consent of the absentee
for the purpose of

.....

Petitioner

(Affidavit of Acknowledgment)

(2) The court may, without notice, enter an order on said petition if it deems the relief requested in said petition necessary to protect the best interests of the absentee or his or her dependents.

(3) Such order shall be prima facie evidence of the validity of the proceedings and the authority of the petitioner to make a conveyance or transfer of the property or to give the absentee's consent in any manner described by subsection (1) of this section.

Sec. 927. RCW 11.96A.030 and 2006 c 360 s 10 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

- (1) "Matter" includes any issue, question, or dispute involving:
 - (a) The determination of any class of creditors, devisees, legatees, heirs, next of kin, or other persons interested in an estate, trust, nonprobate asset, or with respect to any other asset or property interest passing at death;
 - (b) The direction of a personal representative or trustee to do or to abstain from doing any act in a fiduciary capacity;
 - (c) The determination of any question arising in the administration of an estate or trust, or with respect to any nonprobate asset, or with respect to any other asset or property interest passing at death, that may include, without limitation, questions relating to: (i) The construction of wills, trusts, community property agreements, and other writings; (ii) a change of personal representative or trustee; (iii) a

1 change of the situs of a trust; (iv) an accounting from a personal
2 representative or trustee; or (v) the determination of fees for a
3 personal representative or trustee;

4 (d) The grant to a personal representative or trustee of any
5 necessary or desirable power not otherwise granted in the governing
6 instrument or given by law;

7 (e) The amendment, reformation, or conformation of a will or a
8 trust instrument to comply with statutes and regulations of the United
9 States internal revenue service in order to achieve qualification for
10 deductions, elections, and other tax requirements, including the
11 qualification of any gift thereunder for the benefit of a surviving
12 spouse who is not a citizen of the United States for the estate tax
13 marital deduction permitted by federal law, including the addition of
14 mandatory governing instrument requirements for a qualified domestic
15 trust under section 2056A of the internal revenue code, the
16 qualification of any gift thereunder as a qualified conservation
17 easement as permitted by federal law, or the qualification of any gift
18 for the charitable estate tax deduction permitted by federal law,
19 including the addition of mandatory governing instrument requirements
20 for a charitable remainder trust; and

21 (f) With respect to any nonprobate asset, or with respect to any
22 other asset or property interest passing at death, including joint
23 tenancy property, property subject to a community property agreement,
24 or assets subject to a pay on death or transfer on death designation:

25 (i) The ascertaining of any class of creditors or others for
26 purposes of chapter 11.18 or 11.42 RCW;

27 (ii) The ordering of a qualified person, the notice agent, or
28 resident agent, as those terms are defined in chapter 11.42 RCW, or any
29 combination of them, to do or abstain from doing any particular act
30 with respect to a nonprobate asset;

31 (iii) The ordering of a custodian of any of the decedent's records
32 relating to a nonprobate asset to do or abstain from doing any
33 particular act with respect to those records;

34 (iv) The determination of any question arising in the
35 administration under chapter 11.18 or 11.42 RCW of a nonprobate asset;

36 (v) The determination of any questions relating to the abatement,
37 rights of creditors, or other matter relating to the administration,

1 settlement, or final disposition of a nonprobate asset under this
2 title;

3 (vi) The resolution of any matter referencing this chapter,
4 including a determination of any questions relating to the ownership or
5 distribution of an individual retirement account on the death of the
6 spouse of the account holder as contemplated by RCW 6.15.020(6);

7 (vii) The resolution of any other matter that could affect the
8 nonprobate asset.

9 (2) "Notice agent" has the meanings given in RCW 11.42.010.

10 (3) "Nonprobate assets" has the meaning given in RCW 11.02.005.

11 (4) "Party" or "parties" means each of the following persons who
12 has an interest in the subject of the particular proceeding and whose
13 name and address are known to, or are reasonably ascertainable by, the
14 petitioner:

15 (a) The trustor if living;

16 (b) The trustee;

17 (c) The personal representative;

18 (d) An heir;

19 (e) A beneficiary, including devisees, legatees, and trust
20 beneficiaries;

21 (f) The surviving spouse or surviving domestic partner of a
22 decedent with respect to his or her interest in the decedent's
23 property;

24 (g) A guardian ad litem;

25 (h) A creditor;

26 (i) Any other person who has an interest in the subject of the
27 particular proceeding;

28 (j) The attorney general if required under RCW 11.110.120;

29 (k) Any duly appointed and acting legal representative of a party
30 such as a guardian, special representative, or attorney-in-fact;

31 (l) Where applicable, the virtual representative of any person
32 described in this subsection the giving of notice to whom would meet
33 notice requirements as provided in RCW 11.96A.120;

34 (m) Any notice agent, resident agent, or a qualified person, as
35 those terms are defined in chapter 11.42 RCW; and

36 (n) The owner or the personal representative of the estate of the
37 deceased owner of the nonprobate asset that is the subject of the

1 particular proceeding, if the subject of the particular proceeding
2 relates to the beneficiary's liability to a decedent's estate or
3 creditors under RCW 11.18.200.

4 (5) "Persons interested in the estate or trust" means the trustor,
5 if living, all persons beneficially interested in the estate or trust,
6 persons holding powers over the trust or estate assets, the attorney
7 general in the case of any charitable trust where the attorney general
8 would be a necessary party to judicial proceedings concerning the
9 trust, and any personal representative or trustee of the estate or
10 trust.

11 (6) "Principal place of administration of the trust" means the
12 trustee's usual place of business where the day-to-day records
13 pertaining to the trust are kept, or the trustee's residence if the
14 trustee has no such place of business.

15 (7) The "situs" of a trust means the place where the principal
16 place of administration of the trust is located, unless otherwise
17 provided in the instrument creating the trust.

18 (8) "Trustee" means any acting and qualified trustee of the trust.

19 (9) "Representative" and other similar terms refer to a person who
20 virtually represents another under RCW 11.96A.120.

21 (10) "Citation" or "cite" and other similar terms, when required of
22 a person interested in the estate or trust or a party to a petition,
23 means to give notice as required under RCW 11.96A.100. "Citation" or
24 "cite" and other similar terms, when required of the court, means to
25 order, as authorized under RCW 11.96A.020 and 11.96A.060, and as
26 authorized by law.

27 **Sec. 928.** RCW 11.96A.120 and 2001 c 203 s 11 are each amended to
28 read as follows:

29 (1) This section is intended to adopt the common law concept of
30 virtual representation. This section supplements the common law
31 relating to the doctrine of virtual representation and shall not be
32 construed as limiting the application of that common law doctrine.

33 (2) Any notice requirement in this title is satisfied if notice is
34 given as follows:

35 (a) Where an interest in an estate, trust, or nonprobate asset or
36 an interest that may be affected by a power of attorney has been given
37 to persons who comprise a certain class upon the happening of a certain

1 event, notice may be given to the living persons who would constitute
2 the class if the event had happened immediately before the commencement
3 of the proceeding requiring notice, and the persons shall virtually
4 represent all other members of the class;

5 (b) Where an interest in an estate, trust, or nonprobate asset or
6 an interest that may be affected by a power of attorney has been given
7 to a living person, and the same interest, or a share in it, is to pass
8 to the surviving spouse or surviving domestic partner or to persons who
9 are, or might be, the distributees, heirs, issue, or other kindred of
10 that living person upon the happening of a future event, notice may be
11 given to that living person, and the living person shall virtually
12 represent the surviving spouse or surviving domestic partner,
13 distributees, heirs, issue, or other kindred of the person; and

14 (c) Except as otherwise provided in this subsection, where an
15 interest in an estate, trust, or nonprobate asset or an interest that
16 may be affected by a power of attorney has been given to a person or a
17 class of persons, or both, upon the happening of any future event, and
18 the same interest or a share of the interest is to pass to another
19 person or class of persons, or both, upon the happening of an
20 additional future event, notice may be given to the living person or
21 persons who would take the interest upon the happening of the first
22 event, and the living person or persons shall virtually represent the
23 persons and classes of persons who might take on the happening of the
24 additional future event.

25 (3) A party is not virtually represented by a person receiving
26 notice if a conflict of interest involving the matter is known to exist
27 between the notified person and the party.

28 (4) An action taken by the court is conclusive and binding upon
29 each person receiving actual or constructive notice or who is otherwise
30 virtually represented.

31 **Sec. 929.** RCW 11.100.025 and 1985 c 30 s 67 are each amended to
32 read as follows:

33 Notwithstanding RCW 11.98.070(21)(a), 11.100.060, or any other
34 statutory provisions to the contrary, with respect to trusts which
35 require by their own terms or by operation of law that all income be
36 paid at least annually to the spouse or domestic partner of the trust's
37 creator, which do not provide that on the termination of the income

1 interest that the entire then remaining trust estate be paid to the
2 estate of the spouse or domestic partner of the trust's creator, and
3 for which a federal estate or gift tax marital deduction is claimed,
4 any investment in or retention of unproductive property is subject to
5 a power in the spouse or domestic partner of the trust's creator to
6 require either that any such asset be made productive, or that it be
7 converted to productive assets within a reasonable period of time
8 unless the instrument creating the interest provides otherwise.

9 **Sec. 930.** RCW 11.04.290 and 1965 c 145 s 11.04.290 are each
10 amended to read as follows:

11 RCW 11.04.250 through 11.04.290 shall apply to community real
12 property and also to separate estate; and upon the death of either
13 (~~husband or wife~~) spouse or either domestic partner, title of all
14 community real property shall vest immediately in the person or persons
15 to whom the same shall go, pass, descend or be devised, as provided in
16 RCW 11.04.015, subject to all the charges mentioned in RCW 11.04.250.

17 **Sec. 931.** RCW 11.10.030 and 1994 c 221 s 7 are each amended to
18 read as follows:

19 (1) A community debt or liability is charged against the entire
20 community property, with the surviving spouse's or surviving domestic
21 partner's half and the decedent spouse's or decedent domestic partner's
22 half charged equally.

23 (2) A separate debt or liability is charged first against separate
24 property, and if that is insufficient against the balance of decedent's
25 half of community property remaining after community debts and
26 liabilities are satisfied.

27 (3) A community debt or liability that is also the separate debt or
28 liability of the decedent is charged first against the whole of the
29 community property and then against the decedent's separate property.

30 (4) An expense of administration is charged against the separate
31 property and the decedent's half of the community property in
32 proportion to the relative value of the property, unless a different
33 charging of expenses is shown to be appropriate under the circumstances
34 including against the surviving spouse's or surviving domestic
35 partner's share of the community property.

1 (5) Property of a similar type, community or separate, is
2 appropriated in accordance with the abatement priorities of RCW
3 11.10.010.

4 (6) Property that is primarily chargeable for a debt or liability
5 is exhausted, in accordance with the abatement priorities of RCW
6 11.10.010, before resort is had, also in accordance with RCW 11.10.010,
7 to property that is secondarily chargeable.

8 **Sec. 932.** RCW 11.80.010 and 1972 ex.s. c 83 s 1 are each amended
9 to read as follows:

10 Whenever it shall be made to appear by petition to any judge of the
11 superior court of any county that there is property in such county,
12 either real or personal, that requires care and attention, or is in
13 such a condition that it is a menace to the public health, safety or
14 welfare, or that the custodian of such property appointed by the owner
15 thereof is either unable or unwilling to continue longer in the care
16 and custody thereof, and that the owner of such property has absented
17 himself or herself from the county and that his or her whereabouts is
18 unknown and cannot with reasonable diligence be ascertained, or that
19 the absentee owner is a person defined in RCW 11.80.120, which petition
20 shall state the name of the absent owner, his or her approximate age,
21 his or her last known place of residence, the circumstances under which
22 he or she left and the place to which he or she was going, if known,
23 his or her business or occupation and his or her physical appearance
24 and habits so far as known, the judge to whom such petition is
25 presented shall set a time for hearing such petition not less than six
26 weeks from the date of filing, and shall by order direct that a notice
27 of such hearing be published for three successive weeks in a legal
28 newspaper published in the county where such petition is filed and in
29 such other counties and states as will in the judgment of the court be
30 most likely to come to the attention of the absentee or of persons who
31 may know his or her whereabouts, which notice shall state the object of
32 the petition and the date of hearing, and set forth such facts and
33 circumstances as in the judgment of the court will aid in identifying
34 the absentee, and shall contain a request that all persons having
35 knowledge concerning the absentee shall advise the court of the facts:
36 PROVIDED, HOWEVER, That the court may, upon the filing of said

1 petition, appoint a temporary trustee, who shall have the powers,
2 duties and qualifications of a special administrator.

3 If it shall appear at such hearing that the whereabouts of the
4 absentee is unknown, but there is reason to believe that upon further
5 investigation and inquiry he or she may be found, the judge may
6 continue the hearing and order such inquiry and advertisement as will
7 in his or her discretion be liable to disclose the whereabouts of the
8 absentee, but when it shall appear to the judge at such hearing or any
9 adjournment thereof that the whereabouts of the absentee cannot be
10 ascertained, he or she shall appoint a suitable person resident of the
11 county as trustee of such property, taking into consideration the
12 character of the property and the fitness of such trustee to care for
13 the same, preferring in such appointment the ((~~husband or wife~~)) spouse
14 or the domestic partner of the absentee to his or her presumptive
15 heirs, the presumptive heirs to kin more remote, the kin to strangers,
16 and creditors to those who are not otherwise interested, provided they
17 are fit persons to have the care and custody of the particular property
18 in question and will accept the appointment and qualify as hereinafter
19 provided.

20 **Sec. 933.** RCW 11.80.050 and 1965 c 145 s 11.80.050 are each
21 amended to read as follows:

22 Whenever a petition is filed in said estate from which it appears
23 to the satisfaction of the court that the owner of such property left
24 a ((~~husband or wife~~)) spouse or domestic partner, child or children,
25 dependent upon such absentee for support or upon the property in the
26 estate of such absentee, either in whole or in part, the court shall
27 hold a hearing on said petition, after such notice as the court may
28 direct, and upon such hearing shall enter such order as it deems
29 advisable and may order an allowance to be paid out of any of the
30 property of such estate, either community or separate, as the court
31 shall deem reasonable and necessary for the support and maintenance of
32 such dependent or dependents, pending the return of the absentee, or
33 until such time as the property of said estate may be provisionally
34 distributed to the presumptive heirs or to the devisees and legatees.
35 Such allowance shall be paid by the trustee to such persons and in such
36 manner and at such periods of time as the court may direct. For the

1 purpose of carrying out the provisions of this section the court may
2 direct the sale of any of the property of the estate, either real or
3 personal, in accordance with the provisions of RCW 11.80.040.

4 **Sec. 934.** RCW 11.114.010 and 2006 c 204 s 1 are each amended to
5 read as follows:

6 Unless the context clearly requires otherwise, the definitions in
7 this section apply throughout this chapter.

8 (1) "Adult" means an individual other than the minor who has
9 attained the age of twenty-one years and is older than the minor.

10 (2) "Benefit plan" means an employer's plan for the benefit of an
11 employee or partner.

12 (3) "Broker" means a person lawfully engaged in the business of
13 effecting transactions in securities or commodities for the person's
14 own account or for the account of others.

15 (4) "Guardian" means a person appointed or qualified by a court to
16 act as general, limited, or temporary guardian of a minor's property or
17 a person legally authorized to perform substantially the same
18 functions. Conservator means guardian for transfers made under another
19 state's law but enforceable in this state's courts.

20 (5) "Court" means a superior court of the state of Washington.

21 (6) "Custodial property" means (a) any interest in property
22 transferred to a custodian under this chapter and (b) the income from
23 and proceeds of that interest in property.

24 (7) "Custodian" means a person so designated under RCW 11.114.090
25 or a successor or substitute custodian designated under RCW 11.114.180.

26 (8) "Financial institution" means a bank, trust company, savings
27 institution, or credit union, chartered and supervised under state or
28 federal law.

29 (9) "Legal representative" means an individual's personal
30 representative or guardian.

31 (10) "Member of the minor's family" means the minor's parent,
32 stepparent, spouse, domestic partner, grandparent, brother, sister,
33 uncle, or aunt, whether of the whole or half blood or by adoption.

34 (11) "Minor" means an individual who has not attained the age of
35 twenty-five years.

36 (12) "Person" means an individual, corporation, organization, or
37 other legal entity.

1 (13) "State" includes any state of the United States, the District
2 of Columbia, the Commonwealth of Puerto Rico, and any territory or
3 possession subject to the legislative authority of the United States.

4 (14) "Transfer" means a transaction that creates custodial property
5 under RCW 11.114.090.

6 (15) "Transferor" means a person who makes a transfer under this
7 chapter.

8 (16) "Trust company" means a financial institution, corporation, or
9 other legal entity, authorized to exercise general trust powers.

10 **PART X - DISSOLUTION**

11 NEW SECTION. **Sec. 1001.** A new section is added to chapter 26.60
12 RCW to read as follows:

13 (1) Notwithstanding this chapter, a domestic partnership may be
14 terminated without filing a petition for dissolution in superior court,
15 provided that all of the following conditions exist at the time of the
16 filing of the notice of termination:

17 (a) The notice of termination of state registered domestic
18 partnership is signed by both registered domestic partners.

19 (b) Neither party has children under the age of eighteen, whether
20 born or adopted before or after registration of the domestic
21 partnership, and neither of the registered domestic partners, to their
22 knowledge, is pregnant.

23 (c) The state registered domestic partnership is not more than five
24 years in duration.

25 (d) Neither party has any ownership interest in real property
26 wherever situated, and neither party leases a residence, with the
27 exception of the lease of a residence occupied by either party which
28 satisfies the following requirements:

29 (i) The lease does not include an option to purchase; and

30 (ii) The lease terminates within one year from the date of filing
31 the notice of termination of state registered domestic partnership.

32 (e) There are no unpaid obligations in excess of four thousand
33 dollars, as adjusted by subsection (3) of this section, incurred by
34 either or both of the parties after registration of the domestic
35 partnership, excluding the amount of any unpaid obligation with respect
36 to an automobile.

1 (f) The total fair market value of community property assets, net
2 of any encumbrances, including any deferred compensation or retirement
3 plan, is less than twenty-five thousand dollars, as adjusted by
4 subsection (3) of this section, and neither party has separate property
5 assets, net of any encumbrances, in excess of that amount.

6 (g) The parties have executed an agreement setting forth the
7 division of assets and the assumption of liabilities of the community
8 property, and have executed any documents, title certificates, bills of
9 sale, or other evidence of transfer necessary to effectuate the
10 agreement.

11 (h) The parties waive any rights to maintenance by the other
12 domestic partner.

13 (i) Both parties desire that the domestic partnership be
14 terminated.

15 (2) The termination of a domestic partnership pursuant to this
16 section does not prejudice nor bar the rights of either of the parties
17 to institute an action in the superior court to set aside the
18 termination for fraud, duress, mistake, or any other ground recognized
19 at law or in equity. A court may set aside the termination of state
20 registered domestic partnership and declare the termination of the
21 domestic partnership null and void upon proof that the parties did not
22 meet the requirements of this section at the time of the filing of the
23 notice of termination of state registered domestic partnership with the
24 secretary of state.

25 (3) On January 1, 2009, and on each January 1st of each odd-
26 numbered year thereafter, the amounts in subsection (1)(e) and (f) of
27 this section shall be adjusted to reflect any change in the value of
28 the dollar. The adjustments shall be made by multiplying the base
29 amounts by the percentage change in the Washington state consumer price
30 index, with the result rounded to the nearest thousand dollars. The
31 administrative office of the courts shall compute and publish the
32 amounts.

33 **Sec. 1002.** RCW 26.60.050 and 2007 c 156 s 6 are each amended to
34 read as follows:

35 (1)((~~(a)~~ A party)) Parties to a state registered domestic
36 partnership meeting the conditions in section 1001 of this act may
37 terminate the relationship without filing a petition under chapter

1 26.09 RCW by filing with the secretary a notice of termination of the
2 state registered domestic partnership (~~((with the secretary))~~) and an
3 affidavit stating the parties meet the conditions in section 1001 of
4 this act and paying the filing fee established pursuant to subsection
5 (5) of this section. (~~((The notice must be signed by one or both~~
6 ~~parties and notarized. If the notice is not signed by both parties,~~
7 ~~the party seeking termination must also file with the secretary an~~
8 ~~affidavit stating either that the other party has been served in~~
9 ~~writing in the manner prescribed for the service of summons in a civil~~
10 ~~action, that a notice of termination is being filed or that the party~~
11 ~~seeking termination has not been able to find the other party after~~
12 ~~reasonable effort and that notice has been made by publication pursuant~~
13 ~~to (b) of this subsection.~~

14 ~~(b) When the other party cannot be found after reasonable effort,~~
15 ~~the party seeking termination may provide notice by publication in a~~
16 ~~newspaper of general circulation in the county in which the residence~~
17 ~~most recently shared by the domestic partners is located. Notice must~~
18 ~~be published at least once.))~~

19 (2) The state registered domestic partnership shall be terminated
20 effective ninety days after the date of filing the notice of
21 termination and payment of the filing fee.

22 (3) Upon receipt of a signed, notarized notice of termination,
23 (~~((affidavit, if required,))~~) and the filing fee, the secretary shall
24 register the notice of termination and provide a certificate of
25 termination of the state registered domestic partnership to each party
26 named on the notice. The secretary shall maintain a record of each
27 notice of termination filed with the secretary and each certificate of
28 termination issued by the secretary. The secretary shall provide the
29 state registrar of vital statistics with records of terminations of
30 state registered domestic partnerships, except for those state
31 registered domestic partnerships terminated under subsection (4) of
32 this section.

33 (4) A state registered domestic partnership is automatically
34 terminated if, subsequent to the registration of the domestic
35 partnership with the secretary, (~~((either or both))~~) the parties enter
36 into a marriage to each other that is recognized as valid in this
37 state(~~(, either with each other or with another person)).~~

1 (5) The secretary shall set by rule and collect a reasonable fee
2 for filing the declaration, calculated to cover the secretary's costs,
3 but not to exceed fifty dollars. Fees collected under this section are
4 expressly designated for deposit in the secretary of state's revolving
5 fund established under RCW 43.07.130.

6 **Sec. 1003.** RCW 26.09.004 and 1987 c 460 s 3 are each amended to
7 read as follows:

8 The definitions in this section apply throughout this chapter.

9 (1) "Temporary parenting plan" means a plan for parenting of the
10 child pending final resolution of any action for dissolution of
11 marriage or domestic partnership, declaration of invalidity, or legal
12 separation which is incorporated in a temporary order.

13 (2) "Permanent parenting plan" means a plan for parenting the
14 child, including allocation of parenting functions, which plan is
15 incorporated in any final decree or decree of modification in an action
16 for dissolution of marriage or domestic partnership, declaration of
17 invalidity, or legal separation.

18 (3) "Parenting functions" means those aspects of the parent-child
19 relationship in which the parent makes decisions and performs functions
20 necessary for the care and growth of the child. Parenting functions
21 include:

22 (a) Maintaining a loving, stable, consistent, and nurturing
23 relationship with the child;

24 (b) Attending to the daily needs of the child, such as feeding,
25 clothing, physical care and grooming, supervision, health care, and day
26 care, and engaging in other activities which are appropriate to the
27 developmental level of the child and that are within the social and
28 economic circumstances of the particular family;

29 (c) Attending to adequate education for the child, including
30 remedial or other education essential to the best interests of the
31 child;

32 (d) Assisting the child in developing and maintaining appropriate
33 interpersonal relationships;

34 (e) Exercising appropriate judgment regarding the child's welfare,
35 consistent with the child's developmental level and the family's social
36 and economic circumstances; and

37 (f) Providing for the financial support of the child.

1 **Sec. 1004.** RCW 26.09.010 and 1989 c 375 s 1 are each amended to
2 read as follows:

3 (1) Except as otherwise specifically provided herein, the practice
4 in civil action shall govern all proceedings under this chapter, except
5 that trial by jury is dispensed with.

6 (2) A proceeding for dissolution of marriage or domestic
7 partnership, legal separation or a declaration concerning the validity
8 of a marriage or domestic partnership shall be entitled "In re the
9 marriage of and" or "In re the domestic
10 partnership of and" Such proceedings may be
11 filed in the superior court of the county where the petitioner resides.

12 (3) In cases where there has been no prior proceeding in this state
13 involving the marital or domestic partnership status of the parties or
14 support obligations for a minor child, a separate parenting and support
15 proceeding between the parents shall be entitled "In re the parenting
16 and support of"

17 (4) The initial pleading in all proceedings under this chapter
18 shall be denominated a petition. A responsive pleading shall be
19 denominated a response. Other pleadings, and all pleadings in other
20 matters under this chapter shall be denominated as provided in the
21 civil rules for superior court.

22 (5) In this chapter, "decree" includes "judgment".

23 (6) A decree of dissolution, of legal separation, or a declaration
24 concerning the validity of a marriage or domestic partnership shall not
25 be awarded to one of the parties, but shall provide that it affects the
26 status previously existing between the parties in the manner decreed.

27 **Sec. 1005.** RCW 26.09.020 and 2007 c 496 s 203 are each amended to
28 read as follows:

29 (1) A petition in a proceeding for dissolution of marriage or
30 domestic partnership, legal separation, or for a declaration concerning
31 the validity of a marriage or domestic partnership shall allege:

32 (a) The last known state of residence of each party, and if a
33 party's last known state of residence is Washington, the last known
34 county of residence;

35 (b) The date and place of the marriage or, for domestic
36 partnerships, the date of registration, and place of residence when the
37 domestic partnership was registered;

1 (c) If the parties are separated the date on which the separation
2 occurred;

3 (d) The names and ages of any child dependent upon either or both
4 spouses or either or both domestic partners and whether the wife or
5 domestic partner is pregnant;

6 (e) Any arrangements as to the residential schedule of, decision
7 making for, dispute resolution for, and support of the children and the
8 maintenance of a spouse or domestic partner;

9 (f) A statement specifying whether there is community or separate
10 property owned by the parties to be disposed of;

11 (g) If the county has established a program under RCW 26.12.260, a
12 statement affirming that the moving party met and conferred with the
13 program prior to filing the petition;

14 (h) The relief sought.

15 (2) Either or both parties to the marriage or to the domestic
16 partnership may initiate the proceeding.

17 (3) The petitioner shall complete and file with the petition a
18 certificate under RCW 43.70.150 on the form provided by the department
19 of health and the confidential information form under RCW 26.23.050.

20 (4) Nothing in this section shall be construed to limit or prohibit
21 the ability of parties to obtain appropriate emergency orders.

22 **Sec. 1006.** RCW 26.09.030 and 2005 c 55 s 1 are each amended to
23 read as follows:

24 When a party who (1) is a resident of this state, or (2) is a
25 member of the armed forces and is stationed in this state, or (3) is
26 married or in a domestic partnership to a party who is a resident of
27 this state or who is a member of the armed forces and is stationed in
28 this state, petitions for a dissolution of marriage or dissolution of
29 domestic partnership, and alleges that the marriage or domestic
30 partnership is irretrievably broken and when ninety days have elapsed
31 since the petition was filed and from the date when service of summons
32 was made upon the respondent or the first publication of summons was
33 made, the court shall proceed as follows:

34 (a) If the other party joins in the petition or does not deny that
35 the marriage or domestic partnership is irretrievably broken, the court
36 shall enter a decree of dissolution.

1 (b) If the other party alleges that the petitioner was induced to
2 file the petition by fraud, or coercion, the court shall make a finding
3 as to that allegation and, if it so finds shall dismiss the petition.

4 (c) If the other party denies that the marriage or domestic
5 partnership is irretrievably broken the court shall consider all
6 relevant factors, including the circumstances that gave rise to the
7 filing of the petition and the prospects for reconciliation and shall:

8 (i) Make a finding that the marriage or domestic partnership is
9 irretrievably broken and enter a decree of dissolution of the marriage
10 or domestic partnership; or

11 (ii) At the request of either party or on its own motion, transfer
12 the cause to the family court, refer them to another counseling service
13 of their choice, and request a report back from the counseling service
14 within sixty days, or continue the matter for not more than sixty days
15 for hearing. If the cause is returned from the family court or at the
16 adjourned hearing, the court shall:

17 (A) Find that the parties have agreed to reconciliation and dismiss
18 the petition; or

19 (B) Find that the parties have not been reconciled, and that either
20 party continues to allege that the marriage or domestic partnership is
21 irretrievably broken. When such facts are found, the court shall enter
22 a decree of dissolution of the marriage or domestic partnership.

23 (d) If the petitioner requests the court to decree legal separation
24 in lieu of dissolution, the court shall enter the decree in that form
25 unless the other party objects and petitions for a decree of
26 dissolution or declaration of invalidity.

27 (e) In considering a petition for dissolution of marriage or
28 domestic partnership, a court shall not use a party's pregnancy as the
29 sole basis for denying or delaying the entry of a decree of dissolution
30 of marriage or domestic partnership. Granting a decree of dissolution
31 of marriage or domestic partnership when a party is pregnant does not
32 affect further proceedings under the uniform parentage act, chapter
33 26.26 RCW.

34 **Sec. 1007.** RCW 26.09.040 and 1987 c 460 s 4 are each amended to
35 read as follows:

36 (1) While both parties to an alleged marriage or domestic
37 partnership are living, and at least one party is resident in this

1 state or a member of the armed service and stationed in the state, a
2 petition to have the marriage or domestic partnership declared invalid
3 may be sought by:

4 (a) Either or both parties, or the guardian of an incompetent
5 spouse or incompetent domestic partner, for any cause specified in
6 subsection (4) of this section; or

7 (b) Either or both parties, the legal spouse or domestic partner,
8 or a child of either party when it is alleged that (~~the marriage is~~
9 ~~bigamous~~) either or both parties is married to or in a domestic
10 partnership with another person.

11 (2) If the validity of a marriage or domestic partnership is denied
12 or questioned at any time, either or both parties to the marriage or
13 either or both parties to the domestic partnership may petition the
14 court for a judicial determination of the validity of such marriage or
15 domestic partnership.

16 (3) In a proceeding to declare the invalidity of a marriage or
17 domestic partnership, the court shall proceed in the manner and shall
18 have the jurisdiction, including the authority to provide for
19 maintenance, a parenting plan for minor children, and division of the
20 property of the parties, provided by this chapter.

21 (4) After hearing the evidence concerning the validity of a
22 marriage or domestic partnership, if both parties to the alleged
23 marriage or domestic partnership are still living, the court:

24 (a) If it finds the marriage or domestic partnership to be valid,
25 shall enter a decree of validity;

26 (b) If it finds that:

27 (i) The marriage or domestic partnership should not have been
28 contracted because of age of one or both of the parties, lack of
29 required parental or court approval, a prior undissolved marriage of
30 one or both of the parties, a prior domestic partnership of one or both
31 parties that has not been terminated or dissolved, reasons of
32 consanguinity, or because a party lacked capacity to consent to the
33 marriage or domestic partnership, either because of mental incapacity
34 or because of the influence of alcohol or other incapacitating
35 substances, or because a party was induced to enter into the marriage
36 or domestic partnership by force or duress, or by fraud involving the
37 essentials of marriage or domestic partnership, and that the parties
38 have not ratified their marriage or domestic partnership by voluntarily

1 cohabiting after attaining the age of consent, or after attaining
2 capacity to consent, or after cessation of the force or duress or
3 discovery of the fraud, shall declare the marriage or domestic
4 partnership invalid as of the date it was purportedly contracted;

5 (ii) The marriage or domestic partnership should not have been
6 contracted because of any reason other than those above, shall upon
7 motion of a party, order any action which may be appropriate to
8 complete or to correct the record and enter a decree declaring such
9 marriage or domestic partnership to be valid for all purposes from the
10 date upon which it was purportedly contracted;

11 (c) If it finds that a marriage or domestic partnership contracted
12 in a jurisdiction other than this state, was void or voidable under the
13 law of the place where the marriage or domestic partnership was
14 contracted, and in the absence of proof that such marriage or domestic
15 partnership was subsequently validated by the laws of the place of
16 contract or of a subsequent domicile of the parties, shall declare the
17 marriage or domestic partnership invalid as of the date of the marriage
18 or domestic partnership.

19 (5) Any child of the parties born or conceived during the existence
20 of a marriage or domestic partnership of record is legitimate and
21 remains legitimate notwithstanding the entry of a declaration of
22 invalidity of the marriage or domestic partnership.

23 **Sec. 1008.** RCW 26.09.050 and 2000 c 119 s 6 are each amended to
24 read as follows:

25 (1) In entering a decree of dissolution of marriage or domestic
26 partnership, legal separation, or declaration of invalidity, the court
27 shall determine the marital or domestic partnership status of the
28 parties, make provision for a parenting plan for any minor child of the
29 marriage or domestic partnership, make provision for the support of any
30 child of the marriage or domestic partnership entitled to support,
31 consider or approve provision for the maintenance of either spouse or
32 either domestic partner, make provision for the disposition of property
33 and liabilities of the parties, make provision for the allocation of
34 the children as federal tax exemptions, make provision for any
35 necessary continuing restraining orders including the provisions
36 contained in RCW 9.41.800, make provision for the issuance within this
37 action of the restraint provisions of a domestic violence protection

1 order under chapter 26.50 RCW or an antiharassment protection order
2 under chapter 10.14 RCW, and make provision for the change of name of
3 any party.

4 (2) Restraining orders issued under this section restraining or
5 enjoining the person from molesting or disturbing another party, or
6 from going onto the grounds of or entering the home, workplace, or
7 school of the other party or the day care or school of any child, or
8 prohibiting the person from knowingly coming within, or knowingly
9 remaining within, a specified distance of a location, shall prominently
10 bear on the front page of the order the legend: VIOLATION OF THIS
11 ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER
12 CHAPTER 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

13 (3) The court shall order that any restraining order bearing a
14 criminal offense legend, any domestic violence protection order, or any
15 antiharassment protection order granted under this section, in addition
16 to the law enforcement information sheet or proof of service of the
17 order, be forwarded by the clerk of the court on or before the next
18 judicial day to the appropriate law enforcement agency specified in the
19 order. Upon receipt of the order, the law enforcement agency shall
20 enter the order into any computer-based criminal intelligence
21 information system available in this state used by law enforcement
22 agencies to list outstanding warrants. The order is fully enforceable
23 in any county in the state.

24 (4) If a restraining order issued pursuant to this section is
25 modified or terminated, the clerk of the court shall notify the law
26 enforcement agency specified in the order on or before the next
27 judicial day. Upon receipt of notice that an order has been
28 terminated, the law enforcement agency shall remove the order from any
29 computer-based criminal intelligence system.

30 **Sec. 1009.** RCW 26.09.060 and 2000 c 119 s 7 are each amended to
31 read as follows:

- 32 (1) In a proceeding for:
- 33 (a) Dissolution of marriage or domestic partnership, legal
34 separation, or a declaration of invalidity; or
 - 35 (b) Disposition of property or liabilities, maintenance, or support
36 following dissolution of the marriage or the domestic partnership by a
37 court which lacked personal jurisdiction over the absent spouse or

1 absent domestic partner; either party may move for temporary
2 maintenance or for temporary support of children entitled to support.
3 The motion shall be accompanied by an affidavit setting forth the
4 factual basis for the motion and the amounts requested.

5 (2) As a part of a motion for temporary maintenance or support or
6 by independent motion accompanied by affidavit, either party may
7 request the court to issue a temporary restraining order or preliminary
8 injunction, providing relief proper in the circumstances, and
9 restraining or enjoining any person from:

10 (a) Transferring, removing, encumbering, concealing, or in any way
11 disposing of any property except in the usual course of business or for
12 the necessities of life, and, if so restrained or enjoined, requiring
13 him or her to notify the moving party of any proposed extraordinary
14 expenditures made after the order is issued;

15 (b) Molesting or disturbing the peace of the other party or of any
16 child;

17 (c) Going onto the grounds of or entering the home, workplace, or
18 school of the other party or the day care or school of any child upon
19 a showing of the necessity therefor;

20 (d) Knowingly coming within, or knowingly remaining within, a
21 specified distance from a specified location; and

22 (e) Removing a child from the jurisdiction of the court.

23 (3) Either party may request a domestic violence protection order
24 under chapter 26.50 RCW or an antiharassment protection order under
25 chapter 10.14 RCW on a temporary basis. The court may grant any of the
26 relief provided in RCW 26.50.060 except relief pertaining to
27 residential provisions for the children which provisions shall be
28 provided for under this chapter, and any of the relief provided in RCW
29 10.14.080. Ex parte orders issued under this subsection shall be
30 effective for a fixed period not to exceed fourteen days, or upon court
31 order, not to exceed twenty-four days if necessary to ensure that all
32 temporary motions in the case can be heard at the same time.

33 (4) In issuing the order, the court shall consider the provisions
34 of RCW 9.41.800.

35 (5) The court may issue a temporary restraining order without
36 requiring notice to the other party only if it finds on the basis of
37 the moving affidavit or other evidence that irreparable injury could

1 result if an order is not issued until the time for responding has
2 elapsed.

3 (6) The court may issue a temporary restraining order or
4 preliminary injunction and an order for temporary maintenance or
5 support in such amounts and on such terms as are just and proper in the
6 circumstances. The court may in its discretion waive the filing of the
7 bond or the posting of security.

8 (7) Restraining orders issued under this section restraining the
9 person from molesting or disturbing another party, or from going onto
10 the grounds of or entering the home, workplace, or school of the other
11 party or the day care or school of any child, or prohibiting the person
12 from knowingly coming within, or knowingly remaining within, a
13 specified distance of a location, shall prominently bear on the front
14 page of the order the legend: VIOLATION OF THIS ORDER WITH ACTUAL
15 NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.50 RCW AND
16 WILL SUBJECT A VIOLATOR TO ARREST.

17 (8) The court shall order that any temporary restraining order
18 bearing a criminal offense legend, any domestic violence protection
19 order, or any antiharassment protection order granted under this
20 section be forwarded by the clerk of the court on or before the next
21 judicial day to the appropriate law enforcement agency specified in the
22 order. Upon receipt of the order, the law enforcement agency shall
23 enter the order into any computer-based criminal intelligence
24 information system available in this state used by law enforcement
25 agencies to list outstanding warrants. Entry into the computer-based
26 criminal intelligence information system constitutes notice to all law
27 enforcement agencies of the existence of the order. The order is fully
28 enforceable in any county in the state.

29 (9) If a restraining order issued pursuant to this section is
30 modified or terminated, the clerk of the court shall notify the law
31 enforcement agency specified in the order on or before the next
32 judicial day. Upon receipt of notice that an order has been
33 terminated, the law enforcement agency shall remove the order from any
34 computer-based criminal intelligence system.

35 (10) A temporary order, temporary restraining order, or preliminary
36 injunction:

37 (a) Does not prejudice the rights of a party or any child which are
38 to be adjudicated at subsequent hearings in the proceeding;

1 (b) May be revoked or modified;

2 (c) Terminates when the final decree is entered, except as provided
3 under subsection (11) of this section, or when the petition for
4 dissolution, legal separation, or declaration of invalidity is
5 dismissed;

6 (d) May be entered in a proceeding for the modification of an
7 existing decree.

8 (11) Delinquent support payments accrued under an order for
9 temporary support remain collectible and are not extinguished when a
10 final decree is entered unless the decree contains specific language to
11 the contrary. A support debt under a temporary order owed to the state
12 for public assistance expenditures shall not be extinguished by the
13 final decree if:

14 (a) The obligor was given notice of the state's interest under
15 chapter 74.20A RCW; or

16 (b) The temporary order directs the obligor to make support
17 payments to the office of support enforcement or the Washington state
18 support registry.

19 **Sec. 1010.** RCW 26.09.070 and 1989 c 375 s 4 are each amended to
20 read as follows:

21 (1) The parties to a marriage or a domestic partnership, in order
22 to promote the amicable settlement of disputes attendant upon their
23 separation or upon the filing of a petition for dissolution of their
24 marriage or domestic partnership, a decree of legal separation, or
25 declaration of invalidity of their marriage or domestic partnership,
26 may enter into a written separation contract providing for the
27 maintenance of either of them, the disposition of any property owned by
28 both or either of them, the parenting plan and support for their
29 children and for the release of each other from all obligation except
30 that expressed in the contract.

31 (2) If the parties to such contract elect to live separate and
32 apart without any court decree, they may record such contract and cause
33 notice thereof to be published in a legal newspaper of the county
34 wherein the parties resided prior to their separation. Recording such
35 contract and publishing notice of the making thereof shall constitute
36 notice to all persons of such separation and of the facts contained in
37 the recorded document.

1 (3) If either or both of the parties to a separation contract shall
2 at the time of the execution thereof, or at a subsequent time, petition
3 the court for dissolution of their marriage or domestic partnership,
4 for a decree of legal separation, or for a declaration of invalidity of
5 their marriage or domestic partnership, the contract, except for those
6 terms providing for a parenting plan for their children, shall be
7 binding upon the court unless it finds, after considering the economic
8 circumstances of the parties and any other relevant evidence produced
9 by the parties on their own motion or on request of the court, that the
10 separation contract was unfair at the time of its execution. Child
11 support may be included in the separation contract and shall be
12 reviewed in the subsequent proceeding for compliance with RCW
13 26.19.020.

14 (4) If the court in an action for dissolution of marriage or
15 domestic partnership, legal separation, or declaration of invalidity
16 finds that the separation contract was unfair at the time of its
17 execution, it may make orders for the maintenance of either party, the
18 disposition of their property and the discharge of their obligations.

19 (5) Unless the separation contract provides to the contrary, the
20 agreement shall be set forth in the decree of dissolution, legal
21 separation, or declaration of invalidity, or filed in the action or
22 made an exhibit and incorporated by reference, except that in all cases
23 the terms of the parenting plan shall be set out in the decree, and the
24 parties shall be ordered to comply with its terms.

25 (6) Terms of the contract set forth or incorporated by reference in
26 the decree may be enforced by all remedies available for the
27 enforcement of a judgment, including contempt, and are enforceable as
28 contract terms.

29 (7) When the separation contract so provides, the decree may
30 expressly preclude or limit modification of any provision for
31 maintenance set forth in the decree. Terms of a separation contract
32 pertaining to a parenting plan for the children and, in the absence of
33 express provision to the contrary, terms providing for maintenance set
34 forth or incorporated by reference in the decree are automatically
35 modified by modification of the decree.

36 (8) If at any time the parties to the separation contract by mutual
37 agreement elect to terminate the separation contract they may do so

1 without formality unless the contract was recorded as in subsection (2)
2 of this section, in which case a statement should be filed terminating
3 the contract.

4 **Sec. 1011.** RCW 26.09.080 and 1989 c 375 s 5 are each amended to
5 read as follows:

6 In a proceeding for dissolution of the marriage or domestic
7 partnership, legal separation, declaration of invalidity, or in a
8 proceeding for disposition of property following dissolution of the
9 marriage or the domestic partnership by a court which lacked personal
10 jurisdiction over the absent spouse or absent domestic partner or
11 lacked jurisdiction to dispose of the property, the court shall,
12 without regard to (~~marital~~) misconduct, make such disposition of the
13 property and the liabilities of the parties, either community or
14 separate, as shall appear just and equitable after considering all
15 relevant factors including, but not limited to:

- 16 (1) The nature and extent of the community property;
- 17 (2) The nature and extent of the separate property;
- 18 (3) The duration of the marriage or domestic partnership; and
- 19 (4) The economic circumstances of each spouse or domestic partner
20 at the time the division of property is to become effective, including
21 the desirability of awarding the family home or the right to live
22 therein for reasonable periods to a spouse or domestic partner with
23 whom the children reside the majority of the time.

24 **Sec. 1012.** RCW 26.09.090 and 1989 c 375 s 6 are each amended to
25 read as follows:

26 (1) In a proceeding for dissolution of marriage or domestic
27 partnership, legal separation, declaration of invalidity, or in a
28 proceeding for maintenance following dissolution of the marriage or
29 domestic partnership by a court which lacked personal jurisdiction over
30 the absent spouse or absent domestic partner, the court may grant a
31 maintenance order for either spouse or either domestic partner. The
32 maintenance order shall be in such amounts and for such periods of time
33 as the court deems just, without regard to (~~marital~~) misconduct,
34 after considering all relevant factors including but not limited to:

- 35 (a) The financial resources of the party seeking maintenance,
36 including separate or community property apportioned to him or her, and

1 his or her ability to meet his or her needs independently, including
2 the extent to which a provision for support of a child living with the
3 party includes a sum for that party;

4 (b) The time necessary to acquire sufficient education or training
5 to enable the party seeking maintenance to find employment appropriate
6 to his or her skill, interests, style of life, and other attendant
7 circumstances;

8 (c) The standard of living established during the marriage or
9 domestic partnership;

10 (d) The duration of the marriage or domestic partnership;

11 (e) The age, physical and emotional condition, and financial
12 obligations of the spouse or domestic partner seeking maintenance; and

13 (f) The ability of the spouse or domestic partner from whom
14 maintenance is sought to meet his or her needs and financial
15 obligations while meeting those of the spouse or domestic partner
16 seeking maintenance.

17 **Sec. 1013.** RCW 26.09.100 and 1991 sp.s. c 28 s 1 are each amended
18 to read as follows:

19 (1) In a proceeding for dissolution of marriage or domestic
20 partnership, legal separation, declaration of invalidity, maintenance,
21 or child support, after considering all relevant factors but without
22 regard to (~~marital~~) misconduct, the court shall order either or both
23 parents owing a duty of support to any child of the marriage or the
24 domestic partnership dependent upon either or both spouses or domestic
25 partners to pay an amount determined under chapter 26.19 RCW.

26 (2) The court may require automatic periodic adjustments or
27 modifications of child support. That portion of any decree that
28 requires periodic adjustments or modifications of child support shall
29 use the provisions in chapter 26.19 RCW as the basis for the adjustment
30 or modification. Provisions in the decree for periodic adjustment or
31 modification shall not conflict with RCW 26.09.170 except that the
32 decree may require periodic adjustments or modifications of support
33 more frequently than the time periods established pursuant to RCW
34 26.09.170.

35 (3) Upon motion of a party and without a substantial change of
36 circumstances, the court shall modify the decree to comply with

1 subsection (2) of this section as to installments accruing subsequent
2 to entry of the court's order on the motion for modification.

3 (4) The adjustment or modification provision may be modified by the
4 court due to economic hardship consistent with the provisions of RCW
5 26.09.170(~~(+4)~~) (5)(a).

6 **Sec. 1014.** RCW 26.09.110 and 1987 c 460 s 11 are each amended to
7 read as follows:

8 The court may appoint an attorney to represent the interests of a
9 minor or dependent child with respect to provision for the parenting
10 plan in an action for dissolution of marriage or domestic partnership,
11 legal separation, or declaration concerning the validity of a marriage
12 or domestic partnership. The court shall enter an order for costs,
13 fees, and disbursements in favor of the child's attorney. The order
14 shall be made against either or both parents, except that, if both
15 parties are indigent, the costs, fees, and disbursements shall be borne
16 by the county.

17 **Sec. 1015.** RCW 26.09.120 and 1994 c 230 s 2 are each amended to
18 read as follows:

19 (1) The court shall order support payments, including (~~spousal~~)
20 maintenance if child support is ordered, to be made to the Washington
21 state support registry, or the person entitled to receive the payments
22 under an order approved by the court as provided in RCW 26.23.050.

23 (2) Maintenance payments, when ordered in an action where there is
24 no dependent child, may be ordered to be paid to the person entitled to
25 receive the payments, or the clerk of the court as trustee for
26 remittance to the persons entitled to receive the payments.

27 (3) If support or maintenance payments are made to the clerk of
28 court, the clerk:

29 (a) Shall maintain records listing the amount of payments, the date
30 when payments are required to be made, and the names and addresses of
31 the parties affected by the order;

32 (b) May by local court rule accept only certified funds or cash as
33 payment; and

34 (c) Shall accept only certified funds or cash for five years in all
35 cases after one check has been returned for nonsufficient funds or
36 account closure.

1 (4) The parties affected by the order shall inform the registry
2 through which the payments are ordered to be paid of any change of
3 address or of other conditions that may affect the administration of
4 the order.

5 **Sec. 1016.** RCW 26.09.150 and 1989 1st ex.s. c 9 s 205 and 1989 c
6 375 s 30 are each reenacted and amended to read as follows:

7 (1) A decree of dissolution of marriage or domestic partnership,
8 legal separation, or declaration of invalidity is final when entered,
9 subject to the right of appeal. An appeal which does not challenge the
10 finding that the marriage or domestic partnership is irretrievably
11 broken or was invalid, does not delay the finality of the dissolution
12 or declaration of invalidity and either party may remarry or enter into
13 a domestic partnership pending such an appeal.

14 (2)(a) No earlier than six months after entry of a decree of legal
15 separation, on motion of either party, the court shall convert the
16 decree of legal separation to a decree of dissolution of marriage or
17 domestic partnership. The clerk of court shall complete the
18 certificate as provided for in RCW 70.58.200 on the form provided by
19 the department of health. On or before the tenth day of each month,
20 the clerk of the court shall forward to the state registrar of vital
21 statistics the certificate of each decree of divorce, dissolution of
22 marriage or domestic partnership, annulment, or separate maintenance
23 granted during the preceding month.

24 (b) Once a month, the state registrar of vital statistics shall
25 prepare a list of persons for whom a certificate of dissolution of
26 domestic partnership was transmitted to the registrar and was not
27 included in a previous list, and shall supply the list to the secretary
28 of state.

29 (3) Upon request of a party whose marriage or domestic partnership
30 is dissolved or declared invalid, the court shall order a former name
31 restored or the court may, in its discretion, order a change to another
32 name.

33 **Sec. 1017.** RCW 26.09.170 and 2002 c 199 s 1 are each amended to
34 read as follows:

35 (1) Except as otherwise provided in subsection (7) of RCW
36 26.09.070, the provisions of any decree respecting maintenance or

1 support may be modified: (a) Only as to installments accruing
2 subsequent to the petition for modification or motion for adjustment
3 except motions to compel court-ordered adjustments, which shall be
4 effective as of the first date specified in the decree for implementing
5 the adjustment; and, (b) except as otherwise provided in subsections
6 (5), (6), (9), and (10) of this section, only upon a showing of a
7 substantial change of circumstances. The provisions as to property
8 disposition may not be revoked or modified, unless the court finds the
9 existence of conditions that justify the reopening of a judgment under
10 the laws of this state.

11 (2) Unless otherwise agreed in writing or expressly provided in the
12 decree the obligation to pay future maintenance is terminated upon the
13 death of either party or the remarriage of the party receiving
14 maintenance or registration of a new domestic partnership of the party
15 receiving maintenance.

16 (3) Unless otherwise agreed in writing or expressly provided in the
17 decree, provisions for the support of a child are terminated by
18 emancipation of the child or by the death of the parent obligated to
19 support the child.

20 (4) Unless expressly provided by an order of the superior court or
21 a court of comparable jurisdiction, the support provisions of the order
22 are terminated upon the marriage or registration of a domestic
23 partnership to each other of parties to a paternity order, or upon
24 remarriage or registration of a domestic partnership to each other of
25 parties to a decree of dissolution. The remaining provisions of the
26 order, including provisions establishing paternity, remain in effect.

27 (5) An order of child support may be modified one year or more
28 after it has been entered without showing a substantial change of
29 circumstances:

30 (a) If the order in practice works a severe economic hardship on
31 either party or the child;

32 (b) If a party requests an adjustment in an order for child support
33 which was based on guidelines which determined the amount of support
34 according to the child's age, and the child is no longer in the age
35 category on which the current support amount was based;

36 (c) If a child is still in high school, upon a finding that there
37 is a need to extend support beyond the eighteenth birthday to complete
38 high school; or

1 (d) To add an automatic adjustment of support provision consistent
2 with RCW 26.09.100.

3 (6) An order or decree entered prior to June 7, 1984, may be
4 modified without showing a substantial change of circumstances if the
5 requested modification is to:

6 (a) Require health insurance coverage for a child named therein; or

7 (b) Modify an existing order for health insurance coverage.

8 (7) An obligor's voluntary unemployment or voluntary
9 underemployment, by itself, is not a substantial change of
10 circumstances.

11 (8) The department of social and health services may file an action
12 to modify an order of child support if public assistance money is being
13 paid to or for the benefit of the child and the child support order is
14 twenty-five percent or more below the appropriate child support amount
15 set forth in the standard calculation as defined in RCW 26.19.011 and
16 reasons for the deviation are not set forth in the findings of fact or
17 order. The determination of twenty-five percent or more shall be based
18 on the current income of the parties and the department shall not be
19 required to show a substantial change of circumstances if the reasons
20 for the deviations were not set forth in the findings of fact or order.

21 (9)(a) All child support decrees may be adjusted once every twenty-
22 four months based upon changes in the income of the parents without a
23 showing of substantially changed circumstances. Either party may
24 initiate the adjustment by filing a motion and child support
25 worksheets.

26 (b) A party may petition for modification in cases of substantially
27 changed circumstances under subsection (1) of this section at any time.
28 However, if relief is granted under subsection (1) of this section,
29 twenty-four months must pass before a motion for an adjustment under
30 (a) of this subsection may be filed.

31 (c) If, pursuant to (a) of this subsection or subsection (10) of
32 this section, the court adjusts or modifies a child support obligation
33 by more than thirty percent and the change would cause significant
34 hardship, the court may implement the change in two equal increments,
35 one at the time of the entry of the order and the second six months
36 from the entry of the order. Twenty-four months must pass following
37 the second change before a motion for an adjustment under (a) of this
38 subsection may be filed.

1 (d) A parent who is receiving transfer payments who receives a wage
2 or salary increase may not bring a modification action pursuant to
3 subsection (1) of this section alleging that increase constitutes a
4 substantial change of circumstances.

5 (e) The department of social and health services may file an action
6 at any time to modify an order of child support in cases of
7 substantially changed circumstances if public assistance money is being
8 paid to or for the benefit of the child. The determination of the
9 existence of substantially changed circumstances by the department that
10 lead to the filing of an action to modify the order of child support is
11 not binding upon the court.

12 (10) An order of child support may be adjusted twenty-four months
13 from the date of the entry of the decree or the last adjustment or
14 modification, whichever is later, based upon changes in the economic
15 table or standards in chapter 26.19 RCW.

16 **Sec. 1018.** RCW 26.09.210 and 1987 c 460 s 15 are each amended to
17 read as follows:

18 The court may interview the child in chambers to ascertain the
19 child's wishes as to the child's residential schedule in a proceeding
20 for dissolution of marriage or domestic partnership, legal separation,
21 or declaration of invalidity. The court may permit counsel to be
22 present at the interview. The court shall cause a record of the
23 interview to be made and to be made part of the record in the case.

24 The court may seek the advice of professional personnel whether or
25 not they are employed on a regular basis by the court. The advice
26 given shall be in writing and shall be made available by the court to
27 counsel upon request. Counsel may call for cross-examination any
28 professional personnel consulted by the court.

29 **Sec. 1019.** RCW 26.09.255 and 1987 c 460 s 22 are each amended to
30 read as follows:

31 (1) A relative(~~(, as defined in RCW 9A.40.010,)~~) may bring civil
32 action against any other relative if, with intent to deny access to a
33 child by that relative of the child who has a right to physical custody
34 of or visitation with the child or a parent with whom the child resides
35 pursuant to a parenting plan order, the relative takes, entices, or
36 conceals the child from that relative. The plaintiff may be awarded,

1 in addition to any damages awarded by the court, the reasonable
2 expenses incurred by the plaintiff in locating the child, including,
3 but not limited to, investigative services and reasonable attorneys'
4 fees.

5 (2) "Relative" means an ancestor, descendant, or sibling including
6 a relative of the same degree through marriage, domestic partnership,
7 or adoption, or a spouse or domestic partner.

8 **Sec. 1020.** RCW 26.09.280 and 1991 c 367 s 10 are each amended to
9 read as follows:

10 Every action or proceeding to change, modify, or enforce any final
11 order, judgment, or decree entered in any dissolution or legal
12 separation or declaration concerning the validity of a marriage or
13 domestic partnership, whether under this chapter or prior law,
14 regarding the parenting plan or child support for the minor children of
15 the marriage or the domestic partnership may be brought in the county
16 where the minor children are then residing, or in the court in which
17 the final order, judgment, or decree was entered, or in the county
18 where the parent or other person who has the care, custody, or control
19 of the children is then residing.

20 **Sec. 1021.** RCW 26.09.290 and 1973 1st ex.s. c 157 s 29 are each
21 amended to read as follows:

22 Whenever either of the parties in (~~(a divorce action)~~) an action
23 for dissolution of marriage or domestic partnership is, under the law,
24 entitled to a final judgment, but by mistake, negligence, or
25 inadvertence the same has not been signed, filed, or entered, if no
26 appeal has been taken from the interlocutory order or motion for a new
27 trial made, the court, on the motion of either party thereto or upon
28 its own motion, may cause a final judgment to be signed, dated, filed,
29 and entered therein granting the (~~(divorce)~~) dissolution as of the date
30 when the same could have been given or made by the court if applied
31 for. The court may cause such final judgment to be signed, dated,
32 filed, and entered nunc pro tunc as aforesaid, even though a final
33 judgment may have been previously entered where by mistake, negligence
34 or inadvertence the same has not been signed, filed, or entered as soon
35 as such final judgment, the parties to such action shall be deemed to
36 have been restored to the status of single persons as of the date

1 affixed to such judgment, and any marriage or any domestic partnership
2 of either of such parties subsequent to six months after the granting
3 of the interlocutory order as shown by the minutes of the court, and
4 after the final judgment could have been entered under the law if
5 applied for, shall be valid for all purposes as of the date affixed to
6 such final judgment, upon the filing thereof.

7 **Sec. 1022.** RCW 26.09.310 and 1989 c 377 s 1 are each amended to
8 read as follows:

9 No health care provider or facility, or their agent, shall be
10 liable for damages in any civil action brought by a parent or guardian
11 based only on a lack of the parent or guardian's consent for medical
12 care of a minor child, if consent to the care has been given by a
13 parent or guardian of the minor. The immunity provided by this section
14 shall apply regardless of whether:

15 (1) The parents are married, unmarried, in a domestic partnership
16 or not, or separated at the time of consent or treatment;

17 (2) The consenting parent is, or is not, a custodial parent of the
18 minor;

19 (3) The giving of consent by a parent is, or is not, full
20 performance of any agreement between the parents, or of any order or
21 decree in any action entered pursuant to chapter 26.09 RCW;

22 (4) The action or suit is brought by or on behalf of the
23 nonconsenting parent, the minor child, or any other person.

24 **Sec. 1023.** RCW 26.10.050 and 1987 c 460 s 29 are each amended to
25 read as follows:

26 In a custody proceeding, the court may order either or both parents
27 owing a duty of support to any child of the marriage or the domestic
28 partnership dependent upon either or both spouses or either or both
29 domestic partners to pay an amount reasonable or necessary for the
30 child's support.

31 **Sec. 1024.** RCW 26.10.180 and 1989 c 375 s 21 are each amended to
32 read as follows:

33 (1) A relative(~~(, as defined in RCW 9A.40.010,)~~) may bring civil
34 action against any other relative who, with intent to deny access to a
35 child by another relative of the child who has a right to physical

1 custody of or visitation with the child, takes, entices, or conceals
2 the child from that relative. The plaintiff may be awarded, in
3 addition to any damages awarded by the court, the reasonable expenses
4 incurred by the plaintiff in locating the child, including, but not
5 limited to, investigative services and reasonable attorneys' fees.

6 (2) "Relative" means an ancestor, descendant, or sibling including
7 a relative of the same degree through marriage, domestic partnership,
8 or adoption, or a spouse or domestic partner.

9 **Sec. 1025.** RCW 26.12.190 and 1991 c 367 s 14 are each amended to
10 read as follows:

11 (1) The family court shall have jurisdiction and full power in all
12 pending cases to make, alter, modify, and enforce all temporary and
13 permanent orders regarding the following: Parenting plans, child
14 support, custody of children, visitation, possession of property,
15 maintenance, contempt, custodial interference, and orders for
16 attorneys' fees, suit money or costs as may appear just and equitable.
17 Court commissioners or judges shall not have authority to require the
18 parties to mediate disputes concerning child support.

19 (2) Family court investigation, evaluation, mediation, treatment,
20 and reconciliation services, and any other services may be used to
21 assist the court to develop an order as the court deems necessary to
22 preserve the marriage or the domestic partnership, implement an
23 amicable settlement, and resolve the issues in controversy.

24 **Sec. 1026.** RCW 26.18.010 and 1993 c 426 s 1 are each amended to
25 read as follows:

26 The legislature finds that there is an urgent need for vigorous
27 enforcement of child support and (~~spousal~~) maintenance obligations,
28 and that stronger and more efficient statutory remedies need to be
29 established to supplement and complement the remedies provided in
30 chapters 26.09, (~~26.21~~) 26.21A, 26.26, 74.20, and 74.20A RCW.

31 **Sec. 1027.** RCW 26.18.020 and 1993 c 426 s 2 are each amended to
32 read as follows:

33 Unless the context clearly requires otherwise, the definitions in
34 this section apply throughout this chapter.

1 (1) "Dependent child" means any child for whom a support order has
2 been established or for whom a duty of support is owed.

3 (2) "Duty of (~~spousal~~) maintenance" means the duty to provide for
4 the needs of a spouse or former spouse or domestic partner or former
5 domestic partner imposed under chapter 26.09 RCW.

6 (3) "Duty of support" means the duty to provide for the needs of a
7 dependent child, which may include necessary food, clothing, shelter,
8 education, and health care. The duty includes any obligation to make
9 monetary payments, to pay expenses, including (~~spousal~~) maintenance
10 in cases in which there is a dependent child, or to reimburse another
11 person or an agency for the cost of necessary support furnished a
12 dependent child. The duty may be imposed by court order, by operation
13 of law, or otherwise.

14 (4) "Obligee" means the custodian of a dependent child, the spouse
15 or former spouse or domestic partner or former domestic partner, or
16 person or agency, to whom a duty of support or duty of (~~spousal~~)
17 maintenance is owed, or the person or agency to whom the right to
18 receive or collect support or (~~spousal~~) maintenance has been
19 assigned.

20 (5) "Obligor" means the person owing a duty of support or duty of
21 (~~spousal~~) maintenance.

22 (6) "Support or maintenance order" means any judgment, decree, or
23 order of support or (~~spousal~~) maintenance issued by the superior
24 court or authorized agency of the state of Washington; or a judgment,
25 decree, or other order of support or (~~spousal~~) maintenance issued by
26 a court or agency of competent jurisdiction in another state or
27 country, which has been registered or otherwise made enforceable in
28 this state.

29 (7) "Employer" includes the United States government, a state or
30 local unit of government, and any person or entity who pays or owes
31 earnings or remuneration for employment to the obligor.

32 (8) "Earnings" means compensation paid or payable for personal
33 services or remuneration for employment, whether denominated as wages,
34 salary, commission, bonus, or otherwise, and, notwithstanding any other
35 provision of law making the payments exempt from garnishment,
36 attachment, or other process to satisfy support or (~~spousal~~)
37 maintenance obligations, specifically includes periodic payments

1 pursuant to pension or retirement programs, or insurance policies of
2 any type, but does not include payments made under Title 50 RCW, except
3 as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

4 (9) "Disposable earnings" means that part of the earnings of an
5 individual remaining after the deduction from those earnings of any
6 amount required by law to be withheld.

7 (10) "Department" means the department of social and health
8 services.

9 (11) "Health insurance coverage" includes any coverage under which
10 medical services are provided by an employer or a union whether that
11 coverage is provided through a self-insurance program, under the
12 employee retirement income security act of 1974, a commercial insurer
13 pursuant to chapters 48.20 and 48.21 RCW, a health care service
14 contractor pursuant to chapter 48.44 RCW, or a health maintenance
15 organization pursuant to chapter 48.46 RCW, and the state through
16 chapter 41.05 RCW.

17 (12) "Insurer" means a commercial insurance company providing
18 disability insurance under chapter 48.20 or 48.21 RCW, a health care
19 service contractor providing health care coverage under chapter 48.44
20 RCW, a health maintenance organization providing comprehensive health
21 care services under chapter 48.46 RCW, and shall also include any
22 employer or union which is providing health insurance coverage on a
23 self-insured basis.

24 (13) "Remuneration for employment" means moneys due from or payable
25 by the United States to an individual within the scope of 42 U.S.C.
26 Sec. 659 and 42 U.S.C. Sec. 662(f).

27 **Sec. 1028.** RCW 26.18.030 and 1993 c 426 s 3 are each amended to
28 read as follows:

29 (1) The remedies provided in this chapter are in addition to, and
30 not in substitution for, any other remedies provided by law.

31 (2) This chapter applies to any dependent child, whether born
32 before or after June 7, 1984, and regardless of the past or current
33 marital status or domestic partnership status of the parents, and to a
34 spouse or former spouse or domestic partner or former domestic partner.

35 (3) This chapter shall be liberally construed to assure that all
36 dependent children are adequately supported.

1 **Sec. 1029.** RCW 26.18.040 and 1993 c 426 s 4 are each amended to
2 read as follows:

3 (1) A proceeding to enforce a duty of support or (~~spousal~~)
4 maintenance is commenced:

5 (a) By filing a petition for an original action; or

6 (b) By motion in an existing action or under an existing cause
7 number.

8 (2) Venue for the action is in the superior court of the county
9 where the dependent child resides or is present, where the obligor or
10 obligee resides, or where the prior support or maintenance order was
11 entered. The petition or motion may be filed by the obligee, the
12 state, or any agency providing care or support to the dependent child.
13 A filing fee shall not be assessed in cases brought on behalf of the
14 state of Washington.

15 (3) The court retains continuing jurisdiction under this chapter
16 until all duties of either support or (~~spousal~~) maintenance, or both,
17 of the obligor, including arrearages, have been satisfied.

18 **Sec. 1030.** RCW 26.18.050 and 1993 c 426 s 5 are each amended to
19 read as follows:

20 (1) If an obligor fails to comply with a support or (~~spousal~~)
21 maintenance order, a petition or motion may be filed without notice
22 under RCW 26.18.040 to initiate a contempt action as provided in
23 chapter 7.21 RCW. If the court finds there is reasonable cause to
24 believe the obligor has failed to comply with a support or (~~spousal~~)
25 maintenance order, the court may issue an order to show cause requiring
26 the obligor to appear at a certain time and place for a hearing, at
27 which time the obligor may appear to show cause why the relief
28 requested should not be granted. A copy of the petition or motion
29 shall be served on the obligor along with the order to show cause.

30 (2) Service of the order to show cause shall be by personal
31 service, or in the manner provided in the civil rules of superior court
32 or applicable statute.

33 (3) If the order to show cause served upon the obligor included a
34 warning that an arrest warrant could be issued for failure to appear,
35 the court may issue a bench warrant for the arrest of the obligor if
36 the obligor fails to appear on the return date provided in the order.

1 (4) If the obligor contends at the hearing that he or she lacked
2 the means to comply with the support or (~~spousal~~) maintenance order,
3 the obligor shall establish that he or she exercised due diligence in
4 seeking employment, in conserving assets, or otherwise in rendering
5 himself or herself able to comply with the court's order.

6 (5) As provided in RCW 26.18.040, the court retains continuing
7 jurisdiction under this chapter and may use a contempt action to
8 enforce a support or maintenance order until the obligor satisfies all
9 duties of support, including arrearages, that accrued pursuant to the
10 support or maintenance order.

11 **Sec. 1031.** RCW 26.18.070 and 1994 c 230 s 3 are each amended to
12 read as follows:

13 (1) A petition or motion seeking a mandatory wage assignment in an
14 action under RCW 26.18.040 may be filed by an obligee if the obligor
15 is:

16 (a) Subject to a support order allowing immediate income
17 withholding; or

18 (b) More than fifteen days past due in child support or (~~spousal~~)
19 maintenance payments in an amount equal to or greater than the
20 obligation payable for one month.

21 (2) The petition or motion shall include a sworn statement by the
22 obligee, stating the facts authorizing the issuance of the wage
23 assignment order, including:

24 (a) That the obligor, stating his or her name and residence, is:

25 (i) Subject to a support order allowing immediate income
26 withholding; or

27 (ii) More than fifteen days past due in child support or
28 (~~spousal~~) maintenance payments in an amount equal to or greater than
29 the obligation payable for one month;

30 (b) A description of the terms of the order requiring payment of
31 support or (~~spousal~~) maintenance, and the amount past due, if any;

32 (c) The name and address of the obligor's employer;

33 (d) That notice by personal service or any form of mail requiring
34 a return receipt, has been provided to the obligor at least fifteen
35 days prior to the obligee seeking a mandatory wage assignment, unless
36 the order for support or maintenance states that the obligee may seek
37 a mandatory wage assignment without notice to the obligor; and

1 (e) In cases not filed by the state, whether the obligee has
2 received public assistance from any source and, if the obligee has
3 received public assistance, that the department of social and health
4 services has been notified in writing of the pending action.

5 (3) If the court in which a mandatory wage assignment is sought
6 does not already have a copy of the support or maintenance order in the
7 court file, then the obligee shall attach a copy of the support or
8 maintenance order to the petition or motion seeking the wage
9 assignment.

10 **Sec. 1032.** RCW 26.18.090 and 1993 c 426 s 7 are each amended to
11 read as follows:

12 (1) The wage assignment order in RCW 26.18.080 shall include:

13 (a) The maximum amount of current support or (~~spousal~~)
14 maintenance, if any, to be withheld from the obligor's earnings each
15 month, or from each earnings disbursement; and

16 (b) The total amount of the arrearage or reimbursement judgment
17 previously entered by the court, if any, together with interest, if
18 any.

19 (2) The total amount to be withheld from the obligor's earnings
20 each month, or from each earnings disbursement, shall not exceed fifty
21 percent of the disposable earnings of the obligor. If the amounts to
22 be paid toward the arrearage are specified in the support or
23 (~~spousal~~) maintenance order, then the maximum amount to be withheld
24 is the sum of: Either the current support or (~~spousal~~) maintenance
25 ordered, or both; and the amount ordered to be paid toward the
26 arrearage, or fifty percent of the disposable earnings of the obligor,
27 whichever is less.

28 (3) The provisions of RCW 6.27.150 do not apply to wage assignments
29 for child support or (~~spousal~~) maintenance authorized under this
30 chapter, but fifty percent of the disposable earnings of the obligor
31 are exempt, and may be disbursed to the obligor.

32 (4) If an obligor is subject to two or more attachments for child
33 support on account of different obligees, the employer shall, if the
34 nonexempt portion of the obligor's earnings is not sufficient to
35 respond fully to all the attachments, apportion the obligor's nonexempt
36 disposable earnings between or among the various obligees equally. Any
37 obligee may seek a court order reapportioning the obligor's nonexempt

1 disposable earnings upon notice to all interested obligees. Notice
2 shall be by personal service, or in the manner provided by the civil
3 rules of superior court or applicable statute.

4 (5) If an obligor is subject to two or more attachments for
5 (~~spousal~~) maintenance on account of different obligees, the employer
6 shall, if the nonexempt portion of the obligor's earnings is not
7 sufficient to respond fully to all the attachments, apportion the
8 obligor's nonexempt disposable earnings between or among the various
9 obligees equally. An obligee may seek a court order reapportioning the
10 obligor's nonexempt disposable earnings upon notice to all interested
11 obligees. Notice shall be by personal service, or in the manner
12 provided by the civil rules of superior court or applicable statute.

13 **Sec. 1033.** RCW 26.18.100 and 1998 c 77 s 1 are each amended to
14 read as follows:

15 The wage assignment order shall be substantially in the following
16 form:

17 IN THE SUPERIOR COURT OF THE
18 STATE OF WASHINGTON IN AND FOR THE
19 COUNTY OF

20,
21 Obligee No.

22 vs.

23, WAGE ASSIGNMENT
24 Obligor ORDER

25,
26 Employer

27 THE STATE OF WASHINGTON TO:
28 Employer

29 AND TO:
30 Obligor

31 The above-named obligee claims that the above-named obligor is
32 subject to a support order requiring immediate income withholding or is
33 more than fifteen days past due in either child support or (~~spousal~~)
34 maintenance payments, or both, in an amount equal to or greater than
35 the child support or (~~spousal~~) maintenance payable for one month.
36 The amount of the accrued child support or (~~spousal~~) maintenance debt

1 as of this date is dollars, the amount of arrearage
2 payments specified in the support or (~~spousal~~) maintenance order (if
3 applicable) is dollars per, and the amount of
4 the current and continuing support or (~~spousal~~) maintenance
5 obligation under the order is dollars per

6 You are hereby commanded to answer this order by filling in the
7 attached form according to the instructions, and you must mail or
8 deliver the original of the answer to the court, one copy to the
9 Washington state support registry, one copy to the obligee or obligee's
10 attorney, and one copy to the obligor within twenty days after service
11 of this wage assignment order upon you.

12 If you possess any earnings or other remuneration for employment
13 due and owing to the obligor, then you shall do as follows:

14 (1) Withhold from the obligor's earnings or remuneration each
15 month, or from each regular earnings disbursement, the lesser of:

16 (a) The sum of the accrued support or (~~spousal~~) maintenance debt
17 and the current support or (~~spousal~~) maintenance obligation;

18 (b) The sum of the specified arrearage payment amount and the
19 current support or (~~spousal~~) maintenance obligation; or

20 (c) Fifty percent of the disposable earnings or remuneration of the
21 obligor.

22 (2) The total amount withheld above is subject to the wage
23 assignment order, and all other sums may be disbursed to the obligor.

24 (3) Upon receipt of this wage assignment order you shall make
25 immediate deductions from the obligor's earnings or remuneration and
26 remit to the Washington state support registry or other address
27 specified below the proper amounts within five working days of each
28 regular pay interval.

29 You shall continue to withhold the ordered amounts from nonexempt
30 earnings or remuneration of the obligor until notified by:

31 (a) The court that the wage assignment has been modified or
32 terminated; or

33 (b) The addressee specified in the wage assignment order under this
34 section that the accrued child support or (~~spousal~~) maintenance debt
35 has been paid.

36 You shall promptly notify the court and the addressee specified in
37 the wage assignment order under this section if and when the employee
38 is no longer employed by you, or if the obligor no longer receives

1 earnings or remuneration from you. If you no longer employ the
2 employee, the wage assignment order shall remain in effect until you
3 are no longer in possession of any earnings or remuneration owed to the
4 employee.

5 You shall deliver the withheld earnings or remuneration to the
6 Washington state support registry or other address stated below within
7 five working days of each regular pay interval.

8 You shall deliver a copy of this order to the obligor as soon as is
9 reasonably possible. This wage assignment order has priority over any
10 other wage assignment or garnishment, except for another wage
11 assignment or garnishment for child support or (~~spousal~~) maintenance,
12 or order to withhold or deliver under chapter 74.20A RCW.

13 WHETHER OR NOT YOU OWE ANYTHING TO THE OBLIGOR, YOUR FAILURE TO
14 ANSWER AS REQUIRED MAY MAKE YOU LIABLE FOR THE AMOUNT OF
15 SUPPORT MONEYS THAT SHOULD HAVE BEEN WITHHELD FROM THE
16 OBLIGOR'S EARNINGS OR SUBJECT TO CONTEMPT OF COURT.

17 NOTICE TO OBLIGOR: YOU HAVE A RIGHT TO REQUEST A HEARING IN THE
18 SUPERIOR COURT THAT ISSUED THIS WAGE ASSIGNMENT ORDER, TO REQUEST THAT
19 THE COURT QUASH, MODIFY, OR TERMINATE THE WAGE ASSIGNMENT ORDER.
20 REGARDLESS OF THE FACT THAT YOUR WAGES ARE BEING WITHHELD PURSUANT TO
21 THIS ORDER, YOU MAY HAVE SUSPENDED OR NOT RENEWED A PROFESSIONAL,
22 DRIVER'S, OR OTHER LICENSE IF YOU ACCRUE CHILD SUPPORT ARREARAGES
23 TOTALING MORE THAN SIX MONTHS OF CHILD SUPPORT PAYMENTS OR FAIL TO MAKE
24 PAYMENTS TOWARDS A SUPPORT ARREARAGE IN AN AMOUNT THAT EXCEEDS SIX
25 MONTHS OF PAYMENTS.

26 DATED THIS day of, 19. . .

27
28
29 Obligee, Judge/Court Commissioner
30 or obligee's attorney
31 Send withheld payments to:
32
33
34

1 **Sec. 1034.** RCW 26.18.110 and 1998 c 77 s 2 are each amended to
2 read as follows:

3 (1) An employer upon whom service of a wage assignment order has
4 been made shall answer the order by sworn affidavit within twenty days
5 after the date of service. The answer shall state whether the obligor
6 is employed by or receives earnings or other remuneration from the
7 employer, whether the employer will honor the wage assignment order,
8 and whether there are either multiple child support or (~~spousal~~)
9 maintenance attachments, or both, against the obligor.

10 (2) If the employer possesses any earnings or remuneration due and
11 owing to the obligor, the earnings subject to the wage assignment order
12 shall be withheld immediately upon receipt of the wage assignment
13 order. The withheld earnings shall be delivered to the Washington
14 state support registry or, if the wage assignment order is to satisfy
15 a duty of (~~spousal~~) maintenance, to the addressee specified in the
16 assignment within five working days of each regular pay interval.

17 (3) The employer shall continue to withhold the ordered amounts
18 from nonexempt earnings or remuneration of the obligor until notified
19 by:

20 (a) The court that the wage assignment has been modified or
21 terminated; or

22 (b) The Washington state support registry or obligee that the
23 accrued child support or (~~spousal~~) maintenance debt has been paid,
24 provided the wage assignment order contains the language set forth
25 under RCW 26.18.100(3)(b). The employer shall promptly notify the
26 addressee specified in the assignment when the employee is no longer
27 employed. If the employer no longer employs the employee, the wage
28 assignment order shall remain in effect for one year after the employee
29 has left the employment or the employer has been in possession of any
30 earnings or remuneration owed to the employee, whichever is later. The
31 employer shall continue to hold the wage assignment order during that
32 period. If the employee returns to the employer's employment during
33 the one-year period the employer shall immediately begin to withhold
34 the employee's earnings or remuneration according to the terms of the
35 wage assignment order. If the employee has not returned within one
36 year, the wage assignment shall cease to have effect at the expiration
37 of the one-year period, unless the employer continues to owe
38 remuneration for employment to the obligor.

1 (4) The employer may deduct a processing fee from the remainder of
2 the employee's earnings after withholding under the wage assignment
3 order, even if the remainder is exempt under RCW 26.18.090. The
4 processing fee may not exceed (a) ten dollars for the first
5 disbursement made by the employer to the Washington state support
6 registry; and (b) one dollar for each subsequent disbursement to the
7 clerk.

8 (5) An order for wage assignment for support for a dependent child
9 entered under this chapter shall have priority over any other wage
10 assignment or garnishment, except for another wage assignment or
11 garnishment for child support, or order to withhold and deliver under
12 chapter 74.20A RCW. An order for wage assignment for spousal
13 maintenance entered under this chapter shall have priority over any
14 other wage assignment or garnishment, except for a wage assignment,
15 garnishment, or order to withhold and deliver under chapter 74.20A RCW
16 for support of a dependent child, and except for another wage
17 assignment or garnishment for (~~spousal~~) maintenance.

18 (6) An employer who fails to withhold earnings as required by a
19 wage assignment issued under this chapter may be held liable to the
20 obligee for one hundred percent of the support or (~~spousal~~)
21 maintenance debt, or the amount of support or (~~spousal~~) maintenance
22 moneys that should have been withheld from the employee's earnings
23 whichever is the lesser amount, if the employer:

24 (a) Fails or refuses, after being served with a wage assignment
25 order, to deduct and promptly remit from the unpaid earnings the
26 amounts of money required in the order;

27 (b) Fails or refuses to submit an answer to the notice of wage
28 assignment after being served; or

29 (c) Is unwilling to comply with the other requirements of this
30 section.

31 Liability may be established in superior court. Awards in superior
32 court shall include costs, interest under RCW 19.52.020 and 4.56.110,
33 and reasonable attorneys' fees.

34 (7) No employer who complies with a wage assignment issued under
35 this chapter may be liable to the employee for wrongful withholding.

36 (8) No employer may discharge, discipline, or refuse to hire an
37 employee because of the entry or service of a wage assignment issued
38 and executed under this chapter. If an employer discharges,

1 disciplines, or refuses to hire an employee in violation of this
2 section, the employee or person shall have a cause of action against
3 the employer. The employer shall be liable for double the amount of
4 damages suffered as a result of the violation and for costs and
5 reasonable attorneys' fees, and shall be subject to a civil penalty of
6 not more than two thousand five hundred dollars for each violation.
7 The employer may also be ordered to hire, rehire, or reinstate the
8 aggrieved individual.

9 (9) For wage assignments payable to the Washington state support
10 registry, an employer may combine amounts withheld from various
11 employees into a single payment to the Washington state support
12 registry, if the payment includes a listing of the amounts attributable
13 to each employee and other information as required by the registry.

14 (10) An employer shall deliver a copy of the wage assignment order
15 to the obligor as soon as is reasonably possible.

16 **Sec. 1035.** RCW 26.18.120 and 1993 c 426 s 10 are each amended to
17 read as follows:

18 The answer of the employer shall be made on forms, served on the
19 employer with the wage assignment order, substantially as follows:

20 IN THE SUPERIOR COURT OF THE
21 STATE OF WASHINGTON IN AND FOR THE
22 COUNTY OF

23 No.
24 Obligee
25 vs. ANSWER
26 TO WAGE
27 Obligor ASSIGNMENT ORDER
28
29 Employer

30 1. At the time of the service of the wage assignment
31 order on the employer, was the above-named obligor
32 employed by or receiving earnings or other remuneration
33 for employment from the employer?

34 Yes No (check one).

1 2. Are there any other attachments for child support or
2 ((spousal)) maintenance currently in effect against the
3 obligor?

4 Yes No (check one).

5 3. If the answer to question one is yes and the employer
6 cannot comply with the wage assignment order, provide an
7 explanation:
8

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

11

12 Signature of employer Date and place

13

14

15 Signature of person Address for future notice
16 answering for employer to employer

17

18 Connection with employer

19 **Sec. 1036.** RCW 26.18.140 and 1994 c 230 s 6 are each amended to
20 read as follows:

21 (1) Except as provided in subsection (2) of this section, in a
22 hearing to quash, modify, or terminate the wage assignment order, the
23 court may grant relief only upon a showing that the wage assignment
24 order causes extreme hardship or substantial injustice. Satisfaction
25 by the obligor of all past due payments subsequent to the issuance of
26 the wage assignment order is not grounds to quash, modify, or terminate
27 the wage assignment order. If a wage assignment order has been in
28 operation for twelve consecutive months and the obligor's support or
29 ((spousal)) maintenance obligation is current, the court may terminate
30 the order upon motion of the obligor unless the obligee can show good
31 cause as to why the wage assignment order should remain in effect.

32 (2) The court may enter an order delaying, modifying, or
33 terminating the wage assignment order and order the obligor to make
34 payments directly to the obligee as provided in RCW 26.23.050(2).

1 **Sec. 1037.** RCW 26.18.150 and 1993 c 426 s 12 are each amended to
2 read as follows:

3 (1) In any action to enforce a support or (~~spousal~~) maintenance
4 order under Title 26 RCW, the court may, in its discretion, order a
5 parent obligated to pay support for a minor child or person owing a
6 duty of (~~spousal~~) maintenance to post a bond or other security with
7 the court. The bond or other security shall be in the amount of
8 support or (~~spousal~~) maintenance due for a two-year period. The bond
9 or other security is subject to approval by the court. The bond shall
10 include the name and address of the issuer. If the bond is canceled,
11 any person issuing a bond under this section shall notify the court and
12 the person entitled to receive payment under the order.

13 (2) If the obligor fails to make payments as required under the
14 court order, the person entitled to receive payment may recover on the
15 bond or other security in the existing proceeding. The court may,
16 after notice and hearing, increase the amount of the bond or other
17 security. Failure to comply with the court's order to obtain and
18 maintain a bond or other security may be treated as contempt of court.

19 **Sec. 1038.** RCW 26.19.071 and 1997 c 59 s 4 are each amended to
20 read as follows:

21 (1) **Consideration of all income.** All income and resources of each
22 parent's household shall be disclosed and considered by the court when
23 the court determines the child support obligation of each parent. Only
24 the income of the parents of the children whose support is at issue
25 shall be calculated for purposes of calculating the basic support
26 obligation. Income and resources of any other person shall not be
27 included in calculating the basic support obligation.

28 (2) **Verification of income.** Tax returns for the preceding two
29 years and current paystubs shall be provided to verify income and
30 deductions. Other sufficient verification shall be required for income
31 and deductions which do not appear on tax returns or paystubs.

32 (3) **Income sources included in gross monthly income.** Except as
33 specifically excluded in subsection (4) of this section, monthly gross
34 income shall include income from any source, including:

- 35 (a) Salaries;
- 36 (b) Wages;
- 37 (c) Commissions;

- 1 (d) Deferred compensation;
- 2 (e) Overtime;
- 3 (f) Contract-related benefits;
- 4 (g) Income from second jobs;
- 5 (h) Dividends;
- 6 (i) Interest;
- 7 (j) Trust income;
- 8 (k) Severance pay;
- 9 (l) Annuities;
- 10 (m) Capital gains;
- 11 (n) Pension retirement benefits;
- 12 (o) Workers' compensation;
- 13 (p) Unemployment benefits;
- 14 (q) (~~Spousal~~) Maintenance actually received;
- 15 (r) Bonuses;
- 16 (s) Social security benefits; and
- 17 (t) Disability insurance benefits.

18 (4) **Income sources excluded from gross monthly income.** The
19 following income and resources shall be disclosed but shall not be
20 included in gross income:

- 21 (a) Income of a new spouse or new domestic partner or income of
22 other adults in the household;
- 23 (b) Child support received from other relationships;
- 24 (c) Gifts and prizes;
- 25 (d) Temporary assistance for needy families;
- 26 (e) Supplemental security income;
- 27 (f) General assistance; and
- 28 (g) Food stamps.

29 Receipt of income and resources from temporary assistance for needy
30 families, supplemental security income, general assistance, and food
31 stamps shall not be a reason to deviate from the standard calculation.

32 (5) **Determination of net income.** The following expenses shall be
33 disclosed and deducted from gross monthly income to calculate net
34 monthly income:

- 35 (a) Federal and state income taxes;
- 36 (b) Federal insurance contributions act deductions;
- 37 (c) Mandatory pension plan payments;
- 38 (d) Mandatory union or professional dues;

1 (e) State industrial insurance premiums;

2 (f) Court-ordered (~~(spousal)~~) maintenance to the extent actually
3 paid;

4 (g) Up to two thousand dollars per year in voluntary pension
5 payments actually made if the contributions were made for the two tax
6 years preceding the earlier of the (i) tax year in which the parties
7 separated with intent to live separate and apart or (ii) tax year in
8 which the parties filed for dissolution; and

9 (h) Normal business expenses and self-employment taxes for self-
10 employed persons. Justification shall be required for any business
11 expense deduction about which there is disagreement.

12 Items deducted from gross income under this subsection shall not be
13 a reason to deviate from the standard calculation.

14 (6) **Imputation of income.** The court shall impute income to a
15 parent when the parent is voluntarily unemployed or voluntarily
16 underemployed. The court shall determine whether the parent is
17 voluntarily underemployed or voluntarily unemployed based upon that
18 parent's work history, education, health, and age, or any other
19 relevant factors. A court shall not impute income to a parent who is
20 gainfully employed on a full-time basis, unless the court finds that
21 the parent is voluntarily underemployed and finds that the parent is
22 purposely underemployed to reduce the parent's child support
23 obligation. Income shall not be imputed for an unemployable parent.
24 Income shall not be imputed to a parent to the extent the parent is
25 unemployed or significantly underemployed due to the parent's efforts
26 to comply with court-ordered reunification efforts under chapter 13.34
27 RCW or under a voluntary placement agreement with an agency supervising
28 the child. In the absence of information to the contrary, a parent's
29 imputed income shall be based on the median income of year-round full-
30 time workers as derived from the United States bureau of census,
31 current populations reports, or such replacement report as published by
32 the bureau of census.

33 **Sec. 1039.** RCW 26.19.075 and 1997 c 59 s 5 are each amended to
34 read as follows:

35 (1) Reasons for deviation from the standard calculation include but
36 are not limited to the following:

1 (a) **Sources of income and tax planning.** The court may deviate from
2 the standard calculation after consideration of the following:

3 (i) Income of a new spouse or new domestic partner if the parent
4 who is married to the new spouse or in a partnership with a new
5 domestic partner is asking for a deviation based on any other reason.
6 Income of a new spouse or new domestic partner is not, by itself, a
7 sufficient reason for deviation;

8 (ii) Income of other adults in the household if the parent who is
9 living with the other adult is asking for a deviation based on any
10 other reason. Income of the other adults in the household is not, by
11 itself, a sufficient reason for deviation;

12 (iii) Child support actually received from other relationships;

13 (iv) Gifts;

14 (v) Prizes;

15 (vi) Possession of wealth, including but not limited to savings,
16 investments, real estate holdings and business interests, vehicles,
17 boats, pensions, bank accounts, insurance plans, or other assets;

18 (vii) Extraordinary income of a child; or

19 (viii) Tax planning considerations. A deviation for tax planning
20 may be granted only if the child would not receive a lesser economic
21 benefit due to the tax planning.

22 (b) **Nonrecurring income.** The court may deviate from the standard
23 calculation based on a finding that a particular source of income
24 included in the calculation of the basic support obligation is not a
25 recurring source of income. Depending on the circumstances,
26 nonrecurring income may include overtime, contract-related benefits,
27 bonuses, or income from second jobs. Deviations for nonrecurring
28 income shall be based on a review of the nonrecurring income received
29 in the previous two calendar years.

30 (c) **Debt and high expenses.** The court may deviate from the
31 standard calculation after consideration of the following expenses:

32 (i) Extraordinary debt not voluntarily incurred;

33 (ii) A significant disparity in the living costs of the parents due
34 to conditions beyond their control;

35 (iii) Special needs of disabled children;

36 (iv) Special medical, educational, or psychological needs of the
37 children; or

1 (v) Costs incurred or anticipated to be incurred by the parents in
2 compliance with court-ordered reunification efforts under chapter 13.34
3 RCW or under a voluntary placement agreement with an agency supervising
4 the child.

5 (d) **Residential schedule.** The court may deviate from the standard
6 calculation if the child spends a significant amount of time with the
7 parent who is obligated to make a support transfer payment. The court
8 may not deviate on that basis if the deviation will result in
9 insufficient funds in the household receiving the support to meet the
10 basic needs of the child or if the child is receiving temporary
11 assistance for needy families. When determining the amount of the
12 deviation, the court shall consider evidence concerning the increased
13 expenses to a parent making support transfer payments resulting from
14 the significant amount of time spent with that parent and shall
15 consider the decreased expenses, if any, to the party receiving the
16 support resulting from the significant amount of time the child spends
17 with the parent making the support transfer payment.

18 (e) **Children from other relationships.** The court may deviate from
19 the standard calculation when either or both of the parents before the
20 court have children from other relationships to whom the parent owes a
21 duty of support.

22 (i) The child support schedule shall be applied to the mother,
23 father, and children of the family before the court to determine the
24 presumptive amount of support.

25 (ii) Children from other relationships shall not be counted in the
26 number of children for purposes of determining the basic support
27 obligation and the standard calculation.

28 (iii) When considering a deviation from the standard calculation
29 for children from other relationships, the court may consider only
30 other children to whom the parent owes a duty of support. The court
31 may consider court-ordered payments of child support for children from
32 other relationships only to the extent that the support is actually
33 paid.

34 (iv) When the court has determined that either or both parents have
35 children from other relationships, deviations under this section shall
36 be based on consideration of the total circumstances of both
37 households. All child support obligations paid, received, and owed for
38 all children shall be disclosed and considered.

1 (2) All income and resources of the parties before the court, new
2 spouses or new domestic partners, and other adults in the households
3 shall be disclosed and considered as provided in this section. The
4 presumptive amount of support shall be determined according to the
5 child support schedule. Unless specific reasons for deviation are set
6 forth in the written findings of fact and are supported by the
7 evidence, the court shall order each parent to pay the amount of
8 support determined by using the standard calculation.

9 (3) The court shall enter findings that specify reasons for any
10 deviation or any denial of a party's request for any deviation from the
11 standard calculation made by the court. The court shall not consider
12 reasons for deviation until the court determines the standard
13 calculation for each parent.

14 (4) When reasons exist for deviation, the court shall exercise
15 discretion in considering the extent to which the factors would affect
16 the support obligation.

17 (5) Agreement of the parties is not by itself adequate reason for
18 any deviations from the standard calculation.

19 **Sec. 1040.** RCW 26.20.035 and 2002 c 331 s 7 are each amended to
20 read as follows:

21 (1) Except as provided in subsection (2) of this section, any
22 person who is able to provide support, or has the ability to earn the
23 means to provide support, and who:

24 (a) Willfully omits to provide necessary food, clothing, shelter,
25 or medical attendance to a child dependent upon him or her; or

26 (b) Willfully omits to provide necessary food, clothing, shelter,
27 or medical attendance to his or her spouse or his or her domestic
28 partner,

29 is guilty of the crime of family nonsupport.

30 (2) A parent of a newborn who transfers the newborn to a qualified
31 person at an appropriate location pursuant to RCW 13.34.360 is not
32 subject to criminal liability under this section.

33 (3) The crime of family nonsupport is a gross misdemeanor under
34 chapter 9A.20 RCW.

35 **Sec. 1041.** RCW 26.20.071 and 1963 c 10 s 1 are each amended to
36 read as follows:

1 In any proceedings relating to nonsupport or family desertion the
2 laws attaching a privilege against the disclosure of communications
3 between (~~husband and wife~~) spouses or domestic partners shall be
4 inapplicable and both (~~husband and wife~~) spouses or domestic partners
5 in such proceedings shall be competent witnesses to testify to any
6 relevant matter, including marriage, domestic partnership, and
7 parentage.

8 **Sec. 1042.** RCW 26.20.080 and 1984 c 260 s 28 are each amended to
9 read as follows:

10 Proof of the nonsupport of a spouse or domestic partner or of a
11 child or children, or the omission to furnish necessary food, clothing,
12 shelter, or medical attendance for a spouse or domestic partner, or for
13 a child or children, is prima facie evidence that the nonsupport or
14 omission to furnish food, clothing, shelter, or medical attendance is
15 wilful. The provisions of RCW 26.20.030 and 26.20.035 are applicable
16 regardless of the marital or domestic partnership status of the person
17 who has a child dependent upon him or her, and regardless of the
18 nonexistence of any decree requiring payment of support or maintenance.

19 **Sec. 1043.** RCW 26.09.015 and 2007 c 496 s 602 are each amended to
20 read as follows:

21 (1) In any proceeding under this chapter, the matter may be set for
22 mediation of the contested issues before or concurrent with the setting
23 of the matter for hearing. The purpose of the mediation proceeding
24 shall be to reduce acrimony which may exist between the parties and to
25 develop an agreement assuring the child's close and continuing contact
26 with both parents after the marriage or the domestic partnership is
27 dissolved. The mediator shall use his or her best efforts to effect a
28 settlement of the dispute.

29 (2) Each superior court may make available a mediator. The
30 mediator may be a member of the professional staff of a family court or
31 mental health services agency, or may be any other person or agency
32 designated by the court. In order to provide mediation services, the
33 court is not required to institute a family court.

34 (3)(a) Mediation proceedings under this chapter shall be governed
35 in all respects by chapter 7.07 RCW, except as follows:

1 (i) Mediation communications in postdecree mediations mandated by
2 a parenting plan are admissible in subsequent proceedings for the
3 limited purpose of proving:

4 (A) Abuse, neglect, abandonment, exploitation, or unlawful
5 harassment as defined in RCW 9A.46.020(1), of a child;

6 (B) Abuse or unlawful harassment as defined in RCW 9A.46.020(1), of
7 a family or household member as defined in RCW 26.50.010(2); or

8 (C) That a parent used or frustrated the dispute resolution process
9 without good reason for purposes of RCW 26.09.184(4)(d).

10 (ii) If a postdecree mediation-arbitration proceeding is required
11 pursuant to a parenting plan and the same person acts as both mediator
12 and arbitrator, mediation communications in the mediation phase of such
13 a proceeding may be admitted during the arbitration phase, and shall be
14 admissible in the judicial review of such a proceeding under RCW
15 26.09.184(4)(e) to the extent necessary for such review to be
16 effective.

17 (b) None of the exceptions under (a)(i) and (ii) of this subsection
18 shall subject a mediator to compulsory process to testify except by
19 court order for good cause shown, taking into consideration the need
20 for the mediator's testimony and the interest in the mediator
21 maintaining an appearance of impartiality. If a mediation
22 communication is not privileged under (a)(i) of this subsection or that
23 portion of (a)(ii) of this subsection pertaining to judicial review,
24 only the portion of the communication necessary for the application of
25 the exception may be admitted, and such admission of evidence shall not
26 render any other mediation communication discoverable or admissible
27 except as may be provided in chapter 7.07 RCW.

28 (4) The mediator shall assess the needs and interests of the child
29 or children involved in the controversy and may interview the child or
30 children if the mediator deems such interview appropriate or necessary.

31 (5) Any agreement reached by the parties as a result of mediation
32 shall be reported to the court and to counsel for the parties by the
33 mediator on the day set for mediation or any time thereafter designated
34 by the court.

35 **Sec. 1044.** RCW 26.09.015 and 2007 c 496 s 602 and 2007 c 496 s 501
36 are each reenacted and amended to read as follows:

37 (1) In any proceeding under this chapter, the matter may be set for

1 mediation of the contested issues before or concurrent with the setting
2 of the matter for hearing. The purpose of the mediation proceeding
3 shall be to reduce acrimony which may exist between the parties and to
4 develop an agreement assuring the child's close and continuing contact
5 with both parents after the marriage or the domestic partnership is
6 dissolved. The mediator shall use his or her best efforts to effect a
7 settlement of the dispute.

8 (2)(a) Each superior court may make available a mediator. The
9 court shall use the most cost-effective mediation services that are
10 readily available unless there is good cause to access alternative
11 providers. The mediator may be a member of the professional staff of
12 a family court or mental health services agency, or may be any other
13 person or agency designated by the court. In order to provide
14 mediation services, the court is not required to institute a family
15 court.

16 (b) In any proceeding involving issues relating to residential time
17 or other matters governed by a parenting plan, the matter may be set
18 for mediation of the contested issues before or concurrent with the
19 setting of the matter for hearing. Counties may, and to the extent
20 state funding is provided therefor counties shall, provide both
21 predecree and postdecree mediation at reduced or waived fee to the
22 parties within one year of the filing of the dissolution petition.

23 (3)(a) Mediation proceedings under this chapter shall be governed
24 in all respects by chapter 7.07 RCW, except as follows:

25 (i) Mediation communications in postdecree mediations mandated by
26 a parenting plan are admissible in subsequent proceedings for the
27 limited purpose of proving:

28 (A) Abuse, neglect, abandonment, exploitation, or unlawful
29 harassment as defined in RCW 9A.46.020(1), of a child;

30 (B) Abuse or unlawful harassment as defined in RCW 9A.46.020(1), of
31 a family or household member as defined in RCW 26.50.010(2); or

32 (C) That a parent used or frustrated the dispute resolution process
33 without good reason for purposes of RCW 26.09.184(4)(d).

34 (ii) If a postdecree mediation-arbitration proceeding is required
35 pursuant to a parenting plan and the same person acts as both mediator
36 and arbitrator, mediation communications in the mediation phase of such
37 a proceeding may be admitted during the arbitration phase, and shall be

1 admissible in the judicial review of such a proceeding under RCW
2 26.09.184(4)(e) to the extent necessary for such review to be
3 effective.

4 (b) None of the exceptions under (a)(i) and (ii) of this subsection
5 shall subject a mediator to compulsory process to testify except by
6 court order for good cause shown, taking into consideration the need
7 for the mediator's testimony and the interest in the mediator
8 maintaining an appearance of impartiality. If a mediation
9 communication is not privileged under (a)(i) of this subsection or that
10 portion of (a)(ii) of this subsection pertaining to judicial review,
11 only the portion of the communication necessary for the application of
12 the exception may be admitted, and such admission of evidence shall not
13 render any other mediation communication discoverable or admissible
14 except as may be provided in chapter 7.07 RCW.

15 (4) The mediator shall assess the needs and interests of the child
16 or children involved in the controversy and may interview the child or
17 children if the mediator deems such interview appropriate or necessary.

18 (5) Any agreement reached by the parties as a result of mediation
19 shall be reported to the court and to counsel for the parties by the
20 mediator on the day set for mediation or any time thereafter designated
21 by the court.

22 **Sec. 1045.** RCW 26.09.194 and 1987 c 460 s 13 are each amended to
23 read as follows:

24 (1) A parent seeking a temporary order relating to parenting shall
25 file and serve a proposed temporary parenting plan by motion. The
26 other parent, if contesting the proposed temporary parenting plan,
27 shall file and serve a responsive proposed parenting plan. Either
28 parent may move to have a proposed temporary parenting plan entered as
29 part of a temporary order. The parents may enter an agreed temporary
30 parenting plan at any time as part of a temporary order. The proposed
31 temporary parenting plan may be supported by relevant evidence and
32 shall be accompanied by an affidavit or declaration which shall state
33 at a minimum the following:

34 (a) The name, address, and length of residence with the person or
35 persons with whom the child has lived for the preceding twelve months;

36 (b) The performance by each parent during the last twelve months of
37 the parenting functions relating to the daily needs of the child;

1 (c) The parents' work and child-care schedules for the preceding
2 twelve months;

3 (d) The parents' current work and child-care schedules; and

4 (e) Any of the circumstances set forth in RCW 26.09.191 that are
5 likely to pose a serious risk to the child and that warrant limitation
6 on the award to a parent of temporary residence or time with the child
7 pending entry of a permanent parenting plan.

8 (2) At the hearing, the court shall enter a temporary parenting
9 order incorporating a temporary parenting plan which includes:

10 (a) A schedule for the child's time with each parent when
11 appropriate;

12 (b) Designation of a temporary residence for the child;

13 (c) Allocation of decision-making authority, if any. Absent
14 allocation of decision-making authority consistent with RCW
15 26.09.187(2), neither party shall make any decision for the child other
16 than those relating to day-to-day or emergency care of the child, which
17 shall be made by the party who is present with the child;

18 (d) Provisions for temporary support for the child; and

19 (e) Restraining orders, if applicable, under RCW 26.09.060.

20 (3) A parent may make a motion for an order to show cause and the
21 court may enter a temporary order, including a temporary parenting
22 plan, upon a showing of necessity.

23 (4) A parent may move for amendment of a temporary parenting plan,
24 and the court may order amendment to the temporary parenting plan, if
25 the amendment conforms to the limitations of RCW 26.09.191 and is in
26 the best interest of the child.

27 (5) If a proceeding for dissolution of marriage or dissolution of
28 domestic partnership, legal separation, or declaration of invalidity is
29 dismissed, any temporary order or temporary parenting plan is vacated.

30 **Sec. 1046.** RCW 26.12.172 and 1994 c 267 s 5 are each amended to
31 read as follows:

32 Any court rules adopted for the implementation of parenting
33 seminars shall include the following provisions:

34 (1) In no case shall opposing parties be required to attend
35 seminars together;

36 (2) Upon a showing of domestic violence or abuse which would not

1 require mutual decision making pursuant to RCW 26.09.191, or that a
2 parent's attendance at the seminar is not in the children's best
3 interests, the court shall either:

- 4 (a) Waive the requirement of completion of the seminar; or
- 5 (b) Provide an alternative, voluntary parenting seminar for
6 battered spouses or battered domestic partners; and
- 7 (3) The court may waive the seminar for good cause.

8 **Sec. 1047.** RCW 26.12.260 and 2007 c 496 s 201 are each amended to
9 read as follows:

10 (1) After July 1, 2009, but no later than November 1, 2009, a
11 county may, and to the extent state funding is provided to meet the
12 minimum requirements of the program a county shall, create a program to
13 provide services to all parties involved in proceedings under chapter
14 26.09 RCW. Minimum components of this program shall include: (a) An
15 individual to serve as an initial point of contact for parties filing
16 petitions for dissolutions or legal separations under chapter 26.09
17 RCW; (b) informing parties about courthouse facilitation programs and
18 orientations; (c) informing parties of alternatives to filing a
19 dissolution petition, such as marriage or domestic partnership
20 counseling; (d) informing parties of alternatives to litigation
21 including counseling, legal separation, and mediation services if
22 appropriate; (e) informing parties of supportive family services
23 available in the community; (f) screening for referral for services in
24 the areas of domestic violence as defined in RCW 26.50.010, child
25 abuse, substance abuse, and mental health; and (g) assistance to the
26 court in superior court cases filed under chapter 26.09 RCW.

27 (2) This program shall not provide legal advice. No attorney-
28 client relationship or privilege is created, by implication or by
29 inference, between persons providing basic information under this
30 section and the participants in the program.

31 (3) The legislative authority of any county may impose user fees or
32 may impose a surcharge of up to twenty dollars on only those superior
33 court cases filed under this title, or both, to pay for the expenses of
34 this program. Fees collected under this section shall be collected and
35 deposited in the same manner as other county funds are collected and
36 deposited, and shall be maintained in a separate account to be used as

1 provided in this section. The program shall provide services to
2 indigent persons at no expense.

3 (4) Persons who implement the program shall be appointed in the
4 same manner as investigators, stenographers, and clerks as described in
5 RCW 26.12.050.

6 (5) If the county has a program under this section, any petition
7 under RCW 26.09.020 must allege that the moving party met and conferred
8 with the program prior to the filing of the petition.

9 (6) If the county has a program under this section, parties shall
10 meet and confer with the program prior to participation in mediation
11 under RCW 26.09.016.

12 NEW SECTION. **Sec. 1048.** A new section is added to chapter 26.18
13 RCW to read as follows:

14 (1) For the purposes of chapter 26.21A RCW, any privilege,
15 immunity, right, benefit, or responsibility granted or imposed by
16 chapter 26.21A RCW, the uniform interstate family support act, to or on
17 an individual because the individual is or was married is granted or
18 imposed on equivalent terms, substantive and procedural, to or on an
19 individual who is or was in a domestic partnership.

20 (2) For the purposes of chapter 26.21A RCW, any privilege,
21 immunity, right, benefit, or responsibility granted or imposed by
22 chapter 26.21A RCW, the uniform interstate family support act, to or on
23 a spouse with respect to a child is granted or imposed on equivalent
24 terms, substantive and procedural, to or on a domestic partner with
25 respect to a child.

26 **PART XI - RECIPROCITY**

27 NEW SECTION. **Sec. 1101.** A new section is added to chapter 26.60
28 RCW to read as follows:

29 A legal union of two persons of the same sex, other than a
30 marriage, that was validly formed in another jurisdiction, and that is
31 substantially equivalent to a domestic partnership under this chapter,
32 shall be recognized as a valid domestic partnership in this state
33 regardless of whether it bears the name domestic partnership.

1 **PART XII - DEFINITIONS**

2 NEW SECTION. **Sec. 1201.** A new section is added to chapter 26.60
3 RCW to read as follows:

4 Whenever the term "domestic partnership" is used in the Revised
5 Code of Washington it shall be defined to mean "state registered
6 domestic partnership" and whenever the term "domestic partner" is used
7 in the Revised Code of Washington it shall be defined to mean "state
8 registered domestic partner."

9 **PART XIII - MISCELLANEOUS**

10 NEW SECTION. **Sec. 1301.** Part headings used in this act are not
11 any part of the law.

12 NEW SECTION. **Sec. 1302.** If any provision of this act or its
13 application to any person or circumstance is held invalid, the
14 remainder of the act or the application of the provision to other
15 persons or circumstances is not affected.

16 NEW SECTION. **Sec. 1303.** By January 1, 2009, affected agencies
17 shall adopt rules to implement the provisions of this act.

18 NEW SECTION. **Sec. 1304.** Section 1043 of this act expires January
19 1, 2009.

20 NEW SECTION. **Sec. 1305.** Section 1044 of this act takes effect
21 January 1, 2009.

22 NEW SECTION. **Sec. 1306.** Section 1047 of this act takes effect
23 July 1, 2009.

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