
HOUSE BILL 1553

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By Representatives Walkinshaw, MacEwen, Ryu, Appleton, Moscoso, Holy, Gregerson, Zeiger, Peterson, Farrell, Walsh, Reykdal, Orwall, Pettigrew, Tharinger, Fitzgibbon, and Kagi

Read first time 01/22/15. Referred to Committee on Public Safety.

1 AN ACT Relating to certificates of restoration of opportunity;
2 amending RCW 7.60.035, 9.46.075, 9.46.158, 9.92.120, 10.97.030,
3 14.20.090, 18.04.295, 9.96A.020, 9.96A.050, 18.11.160, 18.20.125,
4 18.39.410, 18.44.241, 18.44.311, 18.52.071, 43.43.842, 18.64.165,
5 18.88B.080, 18.108.085, 18.130.055, 18.235.110, 18.145.120,
6 9.94A.030, 18.160.080, 18.165.030, 18.170.030, 18.185.020,
7 18.185.250, 18.130.160, and 43.20A.710; reenacting and amending RCW
8 18.130.050; adding a new chapter to Title 9 RCW; and creating new
9 sections.

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

11 NEW SECTION. **Sec. 1.** The legislature finds that employment is a
12 key factor to the successful reintegration to society of people with
13 criminal histories, and is critical to reducing recidivism, promoting
14 public safety, and encouraging personal responsibility.

15 Occupational licensing and employment laws regulate many
16 professions as well as unskilled and semiskilled
17 occupations. Examples of regulated occupations include alcohol
18 servers, barbers and cosmetologists, body piercers, commercial
19 fishers, contractors, drivers, embalmers, engineers, health care
20 workers, insurance adjusters, real estate professionals, tattoo
21 artists, and waste management workers. Individuals with criminal

1 histories may meet the competency requirements for these occupations
2 through training, experience, or education, but may be disqualified
3 from them based on their criminal history.

4 Certificates of restoration of opportunity help reduce some
5 barriers to employment for adults and juveniles by providing an
6 opportunity for individuals to become more employable and to more
7 successfully reintegrate into society after they have served their
8 sentence, demonstrated a period of law-abiding behavior consistent
9 with successful reentry, and have turned their lives around following
10 a conviction. Applicants for a certificate must also meet all other
11 statutory licensing requirements.

12 Certificates of restoration of opportunity offer potential public
13 and private employers or housing providers concrete and objective
14 information about an individual under consideration for an
15 opportunity. These certificates can facilitate the successful
16 societal reintegration of individuals with a criminal history whose
17 behavior demonstrates that they are taking responsibility for their
18 past criminal conduct and pursuing a positive law-abiding future. A
19 certificate of restoration of opportunity provides a process for
20 people previously sentenced by a Washington court who have
21 successfully changed their lives to seek a court document confirming
22 their changed circumstances.

23 A certificate of restoration of opportunity does not affect any
24 employer's or housing provider's discretion to individually assess
25 every applicant and to hire or rent to the applicants of their
26 choice. Employers will not have to forego hiring their chosen
27 applicants because they face statutory bars that prevent obtaining
28 the necessary occupational credentials.

29 NEW SECTION. **Sec. 2.** The definitions in this section apply
30 throughout this chapter unless the context clearly requires
31 otherwise.

32 (1) "Qualified applicant" means any adult or juvenile who meets
33 the following requirements:

34 (a)(i) One year has passed from sentencing for those sentenced by
35 a Washington state court to probation, or receiving a deferred
36 sentence or other noncustodial sentencing for a misdemeanor or gross
37 misdemeanor offense or an equivalent juvenile adjudication; or

38 (ii) Eighteen months have passed from release from total or
39 partial confinement from a Washington prison or jail or juvenile

1 facility for those sentenced by a Washington state court to
2 incarceration for a misdemeanor or gross misdemeanor or an equivalent
3 juvenile adjudication; or

4 (iii) Two years have passed from sentencing for those sentenced
5 by a Washington state court to probation, or receiving a deferred
6 sentence or other noncustodial sentencing for a class B or C felony
7 or an equivalent juvenile adjudication; or

8 (iv) Two years have passed from release from total confinement
9 from a Washington prison or jail or juvenile facility for those
10 sentenced by a Washington state court for a class B or C felony or an
11 equivalent juvenile adjudication; or

12 (v) Three years have passed from sentencing for those sentenced
13 by a Washington state court to probation, or receiving a deferred
14 sentence or other noncustodial sentencing for a class A felony or an
15 equivalent juvenile adjudication; or

16 (vi) Three years have passed from release from total or partial
17 confinement from a Washington prison or jail or juvenile facility for
18 those sentenced by a Washington state court for a class A felony or
19 an equivalent juvenile adjudication;

20 (b) Is in compliance or has completed all sentencing requirements
21 imposed by a court except for court-ordered legal financial
22 obligations as long as he or she has a payment plan in place and has
23 made at least nine payments in the last twelve months, or has good
24 cause for missing payments during this period;

25 (c) Has never been convicted of a sex offense as defined in RCW
26 9.94A.030 or a crime that includes sexual motivation pursuant to RCW
27 9.94A.835 (sexual motivation for adults), RCW 13.40.135 (sexual
28 motivation for juveniles), RCW 9.94A.535(3)(f) (departures from the
29 guidelines, sexual motivation,) and is not required to register as a
30 sex offender pursuant to RCW 9A.44.130 (registration of sex offenders
31 and kidnapping offenders); and

32 (d) Has not been arrested for nor convicted of a new crime and
33 has no pending criminal charge, and there is no information presented
34 to a qualified court that such a charge is imminent.

35 (2) "Qualified court" means any Washington superior court in the
36 county where an applicant resides or that has sentenced or
37 adjudicated the applicant. If the sentencing or adjudicating court
38 was a court of limited jurisdiction then a qualified court is the
39 superior court in the county of the applicant's conviction or
40 adjudication.

1 NEW SECTION. **Sec. 3.** (1) No state, county, or municipal
2 department, board, officer, or agency authorized to assess the
3 qualifications of any applicant for a license, certificate of
4 authority, qualification to engage in the practice of a profession or
5 business, or for admission to an examination to qualify for such a
6 license or certificate may disqualify a qualified applicant, solely
7 based on the applicant's criminal history, if the qualified applicant
8 has obtained a certificate of restoration of opportunity and the
9 applicant meets all other statutory and regulatory requirements,
10 except as required by federal law or exempted under this subsection.
11 Nothing in this section is interpreted as restoring or creating a
12 means to restore any firearms rights or eligibility to obtain a
13 firearm dealer license pursuant to RCW 9.41.110 or requiring the
14 removal of a protection order.

15 (a) Criminal justice agencies, as defined in RCW 10.97.030, and
16 the Washington state bar association are exempt from this section.

17 (b) To the extent this section conflicts with the requirements
18 for receipt of federal funding under the adoption and safe families
19 act, 42 U.S.C. Sec. 671, this section shall not apply.

20 (c) Unless otherwise addressed in statute, in cases where an
21 applicant would be disqualified under RCW 43.20A.710 or 43.43.842,
22 and the applicant has obtained a certificate of restoration of
23 opportunity, the department of social and health services may, after
24 review of relevant factors, including the nature and seriousness of
25 the offense, time that has passed since conviction, changed
26 circumstances since the offense occurred, and the nature of the
27 employment or license sought, at its discretion:

28 (i) Allow the applicant to have unsupervised access to children,
29 vulnerable adults, or individuals with mental illness or
30 developmental disabilities if the applicant is otherwise qualified
31 and suitable; or

32 (ii) Disqualify the applicant solely based on the applicant's
33 criminal history.

34 (d) If the practice of a profession or business involves
35 unsupervised contact with vulnerable adults, children, or individuals
36 with mental illness or developmental disabilities, or populations
37 otherwise defined by statute as vulnerable, the department of health
38 may, after review of relevant factors, including the nature and
39 seriousness of the offense, time that has passed since conviction,

1 changed circumstances since the offense occurred, and the nature of
2 the employment or license sought, at its discretion:

3 (i) Disqualify an applicant who has obtained a certificate of
4 restoration of opportunity, for a license, certification, or
5 registration to engage in the practice of a health care profession or
6 business solely based on the applicant's criminal history; or

7 (ii) If such applicant is otherwise qualified and suitable,
8 credential or credential with conditions an applicant who has
9 obtained a certificate of restoration of opportunity for a license,
10 certification, or registration to engage in the practice of a health
11 care profession or business.

12 (e) The state of Washington, the department of social and health
13 services, the department of health, and its officers, employees,
14 contractors, and agents are immune from suit based upon its exercise
15 of discretion under this section.

16 (2) A qualified court has jurisdiction to issue a certificate of
17 restoration of opportunity to a qualified applicant.

18 (a) A court must determine, in its discretion whether the
19 certificate:

20 (i) Applies to all past criminal history; or

21 (ii) Applies only to the convictions or adjudications in the
22 jurisdiction of the court.

23 (b) The certificate does not apply to any future criminal justice
24 involvement that occurs after the certificate is issued.

25 (c) A court must determine whether to issue a certificate by
26 determining whether the applicant is a qualified applicant as defined
27 in section 2 of this act.

28 (3) An employer or housing provider may, in its sole discretion,
29 determine whether to consider a certificate of restoration of
30 opportunity issued under this chapter in making employment or rental
31 decisions. Nothing in this section is construed to create a protected
32 class, private right of action, any right, privilege, or duty, or to
33 change any right, privilege, or duty existing under law related to
34 employment or housing except as provided in RCW 7.60.035.

35 (4)(a) Department of social and health services: A certificate of
36 restoration of opportunity does not apply to the state abuse and
37 neglect registry. No finding of abuse, neglect, or misappropriation
38 of property may be removed from the registry based solely on a
39 certificate. The department must include such certificates as part of

1 its criminal history record reports, qualifying letters, or other
2 assessments pursuant to RCW 43.43.830 through 43.43.838.

3 (b) Washington state patrol: The Washington state patrol is not
4 required to remove any records based solely on a certificate of
5 restoration of opportunity. The state patrol must include a
6 certificate as part of its criminal history record report.

7 (c) Court records:

8 (i) A certificate of restoration of opportunity has no effect on
9 any other court records, including records in the judicial
10 information system. The court records related to a certificate of
11 restoration of opportunity must be processed and recorded in the same
12 manner as any other record.

13 (ii) The qualified court where the applicant seeks the
14 certificate of restoration of opportunity must administer the court
15 records regarding the certificate in the same manner as it does
16 regarding all other proceedings.

17 (d) Effect in other judicial proceedings: A certificate of
18 restoration of opportunity may only be submitted to a court to
19 demonstrate that the individual met the specific requirements of this
20 section and not for any other procedure, including evidence of
21 character, reputation, or conduct. A certificate is not an equivalent
22 procedure under Rule of Evidence 609(c).

23 (5) In all cases, an applicant must provide notice to the
24 prosecutor in the county where he or she seeks a certificate of
25 restoration of opportunity of the pendency of such application. The
26 applicant must also notify the prosecuting attorney of any other
27 jurisdiction in which he or she was sentenced within five years of
28 the application for a certificate. The prosecutor in the county where
29 an applicant applies for a certificate shall provide the court with a
30 report of the applicant's criminal history.

31 (6) Application for a certificate of restoration of opportunity
32 must be filed as a civil action. A court in which applications for
33 certificates of restoration of opportunity have been filed must
34 schedule hearings on those applications a minimum of four times each
35 year.

36 (7) A superior court in the county in which the applicant resides
37 may decline to consider the application for certificate of
38 restoration. If the superior court in which the applicant resides
39 declines to consider the application, the court must dismiss the
40 application without prejudice and the applicant may refile the

1 application in another qualified court. The superior court in the
2 county of the applicant's conviction or adjudication may not decline
3 to consider the application.

4 (8) Unless the qualified court determines that a hearing on an
5 application for certificate of restoration is necessary, the court
6 must decide without a hearing whether to grant the certificate of
7 restoration of opportunity based on a review of the application filed
8 by the applicant and pleadings filed by the prosecuting attorney.

9 (9) The clerk of the court in which the certificate of
10 restoration of opportunity is entered shall transmit the certificate
11 of restoration of opportunity to the Washington state patrol
12 identification section, which holds criminal history information for
13 the person who is the subject of the conviction. The Washington state
14 patrol shall update its records to reflect the certificate of
15 restoration of opportunity.

16 (10)(a) The administrative office of the courts shall develop and
17 prepare instructions, forms, and an informational brochure designed
18 to assist applicants applying for a certificate of restoration of
19 opportunity.

20 (b) The instructions must include, at least, a sample of a
21 standard application and a form order for a certificate of
22 restoration of opportunity.

23 (c) The administrative office of the courts shall distribute a
24 master copy of the instructions, informational brochure, and sample
25 application and form order to all county clerks and a master copy of
26 the application and order to all superior courts by January 1, 2016.

27 (d) The administrative office of the courts shall determine the
28 significant non-English-speaking or limited English-speaking
29 populations in the state. The administrator shall then arrange for
30 translation of the instructions, which shall contain a sample of the
31 standard application and order, and the informational brochure into
32 languages spoken by those significant non-English-speaking
33 populations and shall distribute a master copy of the translated
34 instructions and informational brochures to the county clerks by
35 January 1, 2016.

36 (e) The administrative office of the courts shall update the
37 instructions, brochures, standard application and order, and
38 translations when changes in the law make an update necessary.

1 **Sec. 4.** RCW 7.60.035 and 2004 c 165 s 5 are each amended to read
2 as follows:

3 Except as provided in this chapter or otherwise by statute, any
4 person, whether or not a resident of this state, may serve as a
5 receiver, with the exception that a person may not be appointed as a
6 receiver, and shall be replaced as receiver if already appointed, if
7 it should appear to the court that the person:

8 (1) Has been convicted of a felony or other crime involving moral
9 turpitude, except as provided in section 3 of this act, or is
10 controlled by a person who has been convicted of a felony or other
11 crime involving moral turpitude;

12 (2) Is a party to the action, or is a parent, grandparent, child,
13 grandchild, sibling, partner, director, officer, agent, attorney,
14 employee, secured or unsecured creditor or lienor of, or holder of
15 any equity interest in, or controls or is controlled by, the person
16 whose property is to be held by the receiver, or who is the agent or
17 attorney of any disqualified person;

18 (3) Has an interest materially adverse to the interest of persons
19 to be affected by the receivership generally; or

20 (4) Is the sheriff of any county.

21 **Sec. 5.** RCW 9.46.075 and 1981 c 139 s 4 are each amended to read
22 as follows:

23 The commission may deny an application, or suspend or revoke any
24 license or permit issued by it, for any reason or reasons, it deems
25 to be in the public interest, except as provided in section 3 of this
26 act. These reasons shall include, but not be limited to, cases
27 wherein the applicant or licensee, or any person with any interest
28 therein:

29 (1) Has violated, failed or refused to comply with the
30 provisions, requirements, conditions, limitations or duties imposed
31 by chapter 9.46 RCW and any amendments thereto, or any rules adopted
32 by the commission pursuant thereto, or when a violation of any
33 provision of chapter 9.46 RCW, or any commission rule, has occurred
34 upon any premises occupied or operated by any such person or over
35 which he or she has substantial control;

36 (2) Knowingly causes, aids, abets, or conspires with another to
37 cause, any person to violate any of the laws of this state or the
38 rules of the commission, except as provided in section 3 of this act;

1 (3) Has obtained a license or permit by fraud, misrepresentation,
2 concealment, or through inadvertence or mistake;

3 (4) Has been convicted of, or forfeited bond upon a charge of, or
4 pleaded guilty to, forgery, larceny, extortion, conspiracy to
5 defraud, willful failure to make required payments or reports to a
6 governmental agency at any level, or filing false reports therewith,
7 or of any similar offense or offenses, or of bribing or otherwise
8 unlawfully influencing a public official or employee of any state or
9 the United States, or of any crime, whether a felony or misdemeanor
10 involving any gambling activity or physical harm to individuals or
11 involving moral turpitude except as provided in section 3 of this
12 act;

13 (5) Denies the commission or its authorized representatives,
14 including authorized local law enforcement agencies, access to any
15 place where a licensed activity is conducted or who fails promptly to
16 produce for inspection or audit any book, record, document or item
17 required by law or commission rule;

18 (6) Shall fail to display its license on the premises where the
19 licensed activity is conducted at all times during the operation of
20 the licensed activity;

21 (7) Makes a misrepresentation of, or fails to disclose, a
22 material fact to the commission;

23 (8) Fails to prove, by clear and convincing evidence, that he,
24 she or it is qualified in accordance with the provisions of this
25 chapter;

26 (9) Is subject to current prosecution or pending charges, or a
27 conviction which is under appeal, for any of the offenses included
28 under subsection (4) of this section: PROVIDED, That at the request
29 of an applicant for an original license, the commission may defer
30 decision upon the application during the pendency of such prosecution
31 or appeal;

32 (10) Has pursued or is pursuing economic gain in an occupational
33 manner or context which is in violation of the criminal or civil
34 public policy of this state if such pursuit creates probable cause to
35 believe that the participation of such person in gambling or related
36 activities would be inimical to the proper operation of an authorized
37 gambling or related activity in this state. For the purposes of this
38 section, occupational manner or context shall be defined as the
39 systematic planning, administration, management or execution of an
40 activity for financial gain;

1 (11) Is a career offender or a member of a career offender cartel
2 or an associate of a career offender or career offender cartel in
3 such a manner which creates probable cause to believe that the
4 association is of such a nature as to be inimical to the policy of
5 this chapter or to the proper operation of the authorized gambling or
6 related activities in this state. For the purposes of this section,
7 career offender shall be defined as any person whose behavior is
8 pursued in an occupational manner or context for the purpose of
9 economic gain utilizing such methods as are deemed criminal
10 violations of the public policy of this state. A career offender
11 cartel shall be defined as any group of persons who operate together
12 as career offenders.

13 For the purpose of reviewing any application for a license and
14 for considering the denial, suspension or revocation of any license
15 the gambling commission may consider any prior criminal conduct of
16 the applicant or licensee, except as provided in section 3 of this
17 act, and the provisions of RCW 9.95.240 and of chapter 9.96A RCW
18 shall not apply to such cases.

19 **Sec. 6.** RCW 9.46.158 and 1981 c 139 s 18 are each amended to
20 read as follows:

21 No applicant for a license from, nor licensee of, the commission,
22 nor any operator of any gambling activity, shall, without advance
23 approval of the commission, knowingly permit any person to
24 participate in the management or operation of any activity for which
25 a license from the commission is required or which is otherwise
26 authorized by this chapter if that person:

27 (1) Except as provided in section 3 of this act, has been
28 convicted of, or forfeited bond upon a charge of, or pleaded guilty
29 to, forgery, larceny, extortion, conspiracy to defraud, willful
30 failure to make required payments or reports to a governmental agency
31 at any level, or filing false reports therewith, or of any similar
32 offense or offenses, or of any crime, whether a felony or misdemeanor
33 involving any gambling activity or physical harm to individuals or
34 involving moral turpitude; or

35 (2) Has violated, failed, or refused to comply with provisions,
36 requirements, conditions, limitations or duties imposed by this
37 chapter, and any amendments thereto, or any rules adopted by the
38 commission pursuant thereto, or has permitted, aided, abetted,

1 caused, or conspired with another to cause, any person to violate any
2 of the provisions of this chapter or rules of the commission.

3 **Sec. 7.** RCW 9.92.120 and 2011 c 336 s 333 are each amended to
4 read as follows:

5 The conviction of a public officer of any felony or malfeasance
6 in office shall entail, in addition to such other penalty as may be
7 imposed, the forfeiture of his or her office, and shall disqualify
8 him or her from ever afterward holding any public office in this
9 state, except as provided in section 3 of this act.

10 **Sec. 8.** RCW 10.97.030 and 2012 c 125 s 1 are each amended to
11 read as follows:

12 For purposes of this chapter, the definitions of terms in this
13 section shall apply.

14 (1) "Criminal history record information" means information
15 contained in records collected by criminal justice agencies, other
16 than courts, on individuals, consisting of identifiable descriptions
17 and notations of arrests, detentions, indictments, informations, or
18 other formal criminal charges, and any disposition arising therefrom,
19 including acquittals by reason of insanity, dismissals based on lack
20 of competency, sentences, correctional supervision, and release.

21 The term includes any issued certificates of restoration of
22 opportunities and any information contained in records maintained by
23 or obtained from criminal justice agencies, other than courts, which
24 records provide individual identification of a person together with
25 any portion of the individual's record of involvement in the criminal
26 justice system as an alleged or convicted offender, except:

27 (a) Posters, announcements, or lists for identifying or
28 apprehending fugitives or wanted persons;

29 (b) Original records of entry maintained by criminal justice
30 agencies to the extent that such records are compiled and maintained
31 chronologically and are accessible only on a chronological basis;

32 (c) Court indices and records of public judicial proceedings,
33 court decisions, and opinions, and information disclosed during
34 public judicial proceedings;

35 (d) Records of traffic violations which are not punishable by a
36 maximum term of imprisonment of more than ninety days;

37 (e) Records of any traffic offenses as maintained by the
38 department of licensing for the purpose of regulating the issuance,

1 suspension, revocation, or renewal of drivers' or other operators'
2 licenses and pursuant to RCW 46.52.130;

3 (f) Records of any aviation violations or offenses as maintained
4 by the department of transportation for the purpose of regulating
5 pilots or other aviation operators, and pursuant to RCW 47.68.330;

6 (g) Announcements of executive clemency;

7 (h) Intelligence, analytical, or investigative reports and files.

8 (2) "Nonconviction data" consists of all criminal history record
9 information relating to an incident which has not led to a conviction
10 or other disposition adverse to the subject, and for which
11 proceedings are no longer actively pending. There shall be a
12 rebuttable presumption that proceedings are no longer actively
13 pending if more than one year has elapsed since arrest, citation,
14 charge, or service of warrant and no disposition has been entered.

15 (3) "Conviction record" means criminal history record information
16 relating to an incident which has led to a conviction or other
17 disposition adverse to the subject.

18 (4) "Conviction or other disposition adverse to the subject"
19 means any disposition of charges other than: (a) A decision not to
20 prosecute; (b) a dismissal; or (c) acquittal; with the following
21 exceptions, which shall be considered dispositions adverse to the
22 subject: An acquittal due to a finding of not guilty by reason of
23 insanity and a dismissal by reason of incompetency, pursuant to
24 chapter 10.77 RCW; and a dismissal entered after a period of
25 probation, suspension, or deferral of sentence.

26 (5) "Criminal justice agency" means: (a) A court; or (b) a
27 government agency which performs the administration of criminal
28 justice pursuant to a statute or executive order and which allocates
29 a substantial part of its annual budget to the administration of
30 criminal justice.

31 (6) "The administration of criminal justice" means performance of
32 any of the following activities: Detection, apprehension, detention,
33 pretrial release, post-trial release, prosecution, adjudication,
34 correctional supervision, or rehabilitation of accused persons or
35 criminal offenders. The term also includes criminal identification
36 activities and the collection, storage, dissemination of criminal
37 history record information, and the compensation of victims of crime.

38 (7) "Disposition" means the formal conclusion of a criminal
39 proceeding at whatever stage it occurs in the criminal justice
40 system.

1 (8) "Dissemination" means disclosing criminal history record
2 information or disclosing the absence of criminal history record
3 information to any person or agency outside the agency possessing the
4 information, subject to the following exceptions:

5 (a) When criminal justice agencies jointly participate in the
6 maintenance of a single recordkeeping department as an alternative to
7 maintaining separate records, the furnishing of information by that
8 department to personnel of any participating agency is not a
9 dissemination;

10 (b) The furnishing of information by any criminal justice agency
11 to another for the purpose of processing a matter through the
12 criminal justice system, such as a police department providing
13 information to a prosecutor for use in preparing a charge, is not a
14 dissemination;

15 (c) The reporting of an event to a recordkeeping agency for the
16 purpose of maintaining the record is not a dissemination.

17 **Sec. 9.** RCW 14.20.090 and 2010 c 8 s 5012 are each amended to
18 read as follows:

19 The secretary shall refuse to issue an aircraft dealer's license
20 or shall suspend or revoke an aircraft dealer's license whenever he
21 or she has reasonable grounds to believe that the dealer has:

22 (1) Forged or altered any federal certificate, permit, rating, or
23 license relating to ownership and airworthiness of an aircraft;

24 (2) Sold or disposed of an aircraft which he or she knows or has
25 reason to know has been stolen or appropriated without the consent of
26 the owner;

27 (3) Willfully misrepresented any material fact in the application
28 for an aircraft dealer's license, aircraft dealer's certificate, or
29 registration certificate;

30 (4) Willfully withheld or caused to be withheld from a purchaser
31 of an aircraft any document referred to in subsection (1) of this
32 section if applicable, or an affidavit to the effect that there are
33 no liens, mortgages, or encumbrances of any type on the aircraft
34 other than noted thereon, if the document or affidavit has been
35 requested by the purchaser;

36 (5) Suffered or permitted the cancellation of his or her bond or
37 the exhaustion of the penalty thereof;

38 (6) Used an aircraft dealer's certificate for any purpose other
39 than those permitted by this chapter or RCW 47.68.250 and 82.48.100;

1 (7) Except as provided in section 3 of this act, been adjudged
2 guilty of a crime that directly relates to the business of an
3 aircraft dealer and the time elapsed since the conviction is less
4 than ten years, or had a judgment entered against the dealer within
5 the preceding five years in any civil action involving fraud,
6 misrepresentation, or conversion. For the purpose of this section,
7 the term "adjudged guilty" means, in addition to a final conviction
8 in either a state or municipal court, an unvacated forfeiture of bail
9 or collateral deposited to secure a defendant's appearance in court,
10 the payment of a fine, a plea of guilty, or a finding of guilt
11 regardless of whether the imposition of the sentence is deferred or
12 the penalty is suspended.

13 **Sec. 10.** RCW 18.04.295 and 2004 c 159 s 4 are each amended to
14 read as follows:

15 The board shall have the power to: Revoke, suspend, or refuse to
16 issue, renew, or reinstate a license or certificate; impose a fine in
17 an amount not to exceed thirty thousand dollars plus the board's
18 investigative and legal costs in bringing charges against a certified
19 public accountant, a certificate holder, a licensee, a licensed firm,
20 an applicant, a non-CPA violating the provisions of RCW 18.04.345, or
21 a nonlicensee holding an ownership interest in a licensed firm; may
22 impose full restitution to injured parties; may impose conditions
23 precedent to renewal of a certificate or a license; or may prohibit a
24 nonlicensee from holding an ownership interest in a licensed firm,
25 for any of the following causes:

26 (1) Fraud or deceit in obtaining a license, or in any filings
27 with the board;

28 (2) Dishonesty, fraud, or negligence while representing oneself
29 as a nonlicensee owner holding an ownership interest in a licensed
30 firm, a licensee, or a certificate holder;

31 (3) A violation of any provision of this chapter;

32 (4) A violation of a rule of professional conduct promulgated by
33 the board under the authority granted by this chapter;

34 (5) Except as provided in section 3 of this act, conviction of a
35 crime or an act constituting a crime under:

36 (a) The laws of this state;

37 (b) The laws of another state, and which, if committed within
38 this state, would have constituted a crime under the laws of this
39 state; or

1 (c) Federal law;

2 (6) Cancellation, revocation, suspension, or refusal to renew the
3 authority to practice as a certified public accountant by any other
4 state for any cause other than failure to pay a fee or to meet the
5 requirements of CPE in the other state;

6 (7) Suspension or revocation of the right to practice matters
7 relating to public accounting before any state or federal agency;

8 For purposes of subsections (6) and (7) of this section, a
9 certified copy of such revocation, suspension, or refusal to renew
10 shall be prima facie evidence;

11 (8) Failure to maintain compliance with the requirements for
12 issuance, renewal, or reinstatement of a certificate or license, or
13 to report changes to the board;

14 (9) Failure to cooperate with the board by:

15 (a) Failure to furnish any papers or documents requested or
16 ordered by the board;

17 (b) Failure to furnish in writing a full and complete explanation
18 covering the matter contained in the complaint filed with the board
19 or the inquiry of the board;

20 (c) Failure to respond to subpoenas issued by the board, whether
21 or not the recipient of the subpoena is the accused in the
22 proceeding;

23 (10) Failure by a nonlicensee owner of a licensed firm to comply
24 with the requirements of this chapter or board rule; and

25 (11) Failure to comply with an order of the board.

26 **Sec. 11.** RCW 9.96A.020 and 2009 c 396 s 7 are each amended to
27 read as follows:

28 (1) Subject to the exceptions in subsections (3) through (5) of
29 this section, and unless there is another provision of law to the
30 contrary, a person is not disqualified from employment by the state
31 of Washington or any of its counties, cities, towns, municipal
32 corporations, or quasi-municipal corporations, nor is a person
33 disqualified to practice, pursue or engage in any occupation, trade,
34 vocation, or business for which a license, permit, certificate or
35 registration is required to be issued by the state of Washington or
36 any of its counties, cities, towns, municipal corporations, or quasi-
37 municipal corporations solely because of a prior conviction of a
38 felony. However, this section does not preclude the fact of any prior
39 conviction of a crime from being considered.

1 (2) A person may be denied employment by the state of Washington
2 or any of its counties, cities, towns, municipal corporations, or
3 quasi-municipal corporations, or a person may be denied a license,
4 permit, certificate or registration to pursue, practice or engage in
5 an occupation, trade, vocation, or business by reason of the prior
6 conviction of a felony if the felony for which he or she was
7 convicted directly relates to the position of employment sought or to
8 the specific occupation, trade, vocation, or business for which the
9 license, permit, certificate or registration is sought, and the time
10 elapsed since the conviction is less than ten years, except as
11 provided in section 3 of this act. However, for positions in the
12 county treasurer's office, a person may be disqualified from
13 employment because of a prior guilty plea or conviction of a felony
14 involving embezzlement or theft, even if the time elapsed since the
15 guilty plea or conviction is ten years or more, except as provided in
16 section 3 of this act.

17 (3) A person is disqualified for any certificate required or
18 authorized under chapters 28A.405 or 28A.410 RCW, because of a prior
19 guilty plea or the conviction of a felony crime specified under RCW
20 28A.400.322, even if the time elapsed since the guilty plea or
21 conviction is ten years or more, except as provided in section 3 of
22 this act.

23 (4) A person is disqualified from employment by school districts,
24 educational service districts, and their contractors hiring employees
25 who will have regularly scheduled unsupervised access to children,
26 because of a prior guilty plea or conviction of a felony crime
27 specified under RCW 28A.400.322, even if the time elapsed since the
28 guilty plea or conviction is ten years or more, except as provided in
29 section 3 of this act.

30 (5) The provisions of this chapter do not apply to issuance of
31 licenses or credentials for professions regulated under chapter
32 18.130 RCW.

33 (6) Subsections (3) and (4) of this section as they pertain to
34 felony crimes specified under RCW 28A.400.322(1) apply to a person
35 applying for a certificate or for employment on or after July 25,
36 1993, and before July 26, 2009. Subsections (3) and (4) of this
37 section as they pertain to all felony crimes specified under RCW
38 28A.400.322(2) apply to a person applying for a certificate or for
39 employment on or after July 26, 2009. Subsection (5) of this section

1 only applies to a person applying for a license or credential on or
2 after June 12, 2008.

3 **Sec. 12.** RCW 9.96A.050 and 1973 c 135 s 5 are each amended to
4 read as follows:

5 Except as provided in section 3 of this act, the provisions of
6 this chapter shall prevail over any other provisions of law which
7 purport to govern the denial of licenses, permits, certificates,
8 registrations, or other means to engage in a business, on the grounds
9 of a lack of good moral character, or which purport to govern the
10 suspension or revocation of such a license, permit, certificate, or
11 registration on the grounds of conviction of a crime.

12 **Sec. 13.** RCW 18.11.160 and 2002 c 86 s 209 are each amended to
13 read as follows:

14 (1) Except as provided in section 3 of this act, no license shall
15 be issued by the department to any person who has been convicted of
16 forgery, embezzlement, obtaining money under false pretenses,
17 extortion, criminal conspiracy, fraud, theft, receiving stolen goods,
18 unlawful issuance of checks or drafts, or other similar offense, or
19 to any partnership of which the person is a member, or to any
20 association or corporation of which the person is an officer or in
21 which as a stockholder the person has or exercises a controlling
22 interest either directly or indirectly.

23 (2) In addition to the unprofessional conduct described in RCW
24 18.235.130, the director has the authority to take disciplinary
25 action for any of the following conduct, acts, or conditions:

26 (a) Underreporting to the department of sales figures so that the
27 auctioneer or auction company surety bond is in a lower amount than
28 required by law;

29 (b) Nonpayment of an administrative fine prior to renewal of a
30 license; and

31 (c) Any other violations of this chapter.

32 (3) The department shall immediately suspend the license of a
33 person who has been certified pursuant to RCW 74.20A.320 by the
34 department of social and health services as a person who is not in
35 compliance with a support order. If the person has continued to meet
36 all other requirements for reinstatement during the suspension,
37 reissuance of the license shall be automatic upon the department's

1 receipt of a release issued by the department of social and health
2 services stating that the licensee is in compliance with the order.

3 **Sec. 14.** RCW 18.20.125 and 2012 c 164 s 504 are each amended to
4 read as follows:

5 (1) Inspections must be outcome based and responsive to resident
6 complaints and based on a clear set of health, quality of care, and
7 safety standards that are easily understandable and have been made
8 available to facilities, residents, and other interested parties.
9 This includes that when conducting licensing inspections, the
10 department shall interview an appropriate percentage of residents,
11 family members, and advocates in addition to interviewing appropriate
12 staff.

13 (2) Prompt and specific enforcement remedies shall also be
14 implemented without delay, consistent with RCW 18.20.190, for
15 facilities found to have delivered care or failed to deliver care
16 resulting in problems that are serious, recurring, or uncorrected, or
17 that create a hazard that is causing or likely to cause death or
18 serious harm to one or more residents. These enforcement remedies may
19 also include, when appropriate, reasonable conditions on a license.
20 In the selection of remedies, the safety, health, and well-being of
21 residents shall be of paramount importance.

22 (3)(a) To the extent funding is available, the licensee,
23 administrator, and their staff should be screened through background
24 checks in a uniform and timely manner to ensure that they do not have
25 a criminal history that would disqualify them from working with
26 vulnerable adults. Employees may be provisionally hired pending the
27 results of the background check if they have been given three
28 positive references.

29 (b) Long-term care workers, as defined in RCW 74.39A.009, who are
30 hired after January 7, 2012, are subject to background checks under
31 RCW 74.39A.056.

32 (4) Except as provided in section 3 of this act, no licensee,
33 administrator, or staff, or prospective licensee, administrator, or
34 staff, with a stipulated finding of fact, conclusion of law, and
35 agreed order, or finding of fact, conclusion of law, or final order
36 issued by a disciplining authority, a court of law, or entered into
37 the state registry finding him or her guilty of abuse, neglect,
38 exploitation, or abandonment of a minor or a vulnerable adult as

1 defined in chapter 74.34 RCW shall be employed in the care of and
2 have unsupervised access to vulnerable adults.

3 **Sec. 15.** RCW 18.39.410 and 2005 c 365 s 24 are each amended to
4 read as follows:

5 In addition to the unprofessional conduct described in RCW
6 18.235.130, the board may take disciplinary action and may impose any
7 of the sanctions specified in RCW 18.235.110 for the following
8 conduct, acts, or conditions, except as provided in section 3 of this
9 act:

10 (1) Solicitation of human remains by a licensee, registrant,
11 endorsement, or permit holder, or agent, assistant, or employee of
12 the licensee, registrant, endorsement, or permit holder whether the
13 solicitation occurs after death or while death is impending. This
14 chapter does not prohibit general advertising or the sale of
15 prearrangement funeral service contracts;

16 (2) Solicitation may include employment of solicitors, payment of
17 commission, bonus, rebate, or any form of gratuity or payment of a
18 finders fee, referral fee, or other consideration given for the
19 purpose of obtaining or providing the services for human remains or
20 where death is impending;

21 (3) Acceptance by a licensee, registrant, endorsement, or permit
22 holder or other employee of a funeral establishment of a commission,
23 bonus, rebate, or gratuity in consideration of directing business to
24 a cemetery, crematory, mausoleum, columbarium, florist, or other
25 person providing goods and services to the disposition of human
26 remains;

27 (4) Using a casket or part of a casket that has previously been
28 used as a receptacle for, or in connection with, the burial or other
29 disposition of human remains without the written consent of the
30 person lawfully entitled to control the disposition of remains of the
31 deceased person in accordance with RCW 68.50.160. This subsection
32 does not prohibit the use of rental caskets, such as caskets of which
33 the outer shell portion is rented and the inner insert that contains
34 the human remains is purchased and used for the disposition, that are
35 disclosed as such in the statement of funeral goods and services;

36 (5) Violation of a state law, municipal law, or county ordinance
37 or regulation affecting the handling, custody, care, transportation,
38 or disposition of human remains, except as provided in section 3 of
39 this act;

1 (6) Refusing to promptly surrender the custody of human remains
2 upon the expressed order of the person lawfully entitled to its
3 custody under RCW 68.50.160;

4 (7) Selling, or offering for sale, a share, certificate, or an
5 interest in the business of a funeral establishment, or in a
6 corporation, firm, or association owning or operating a funeral
7 establishment that promises or purports to give to purchasers a right
8 to the services of a licensee, registrant, endorsement, or permit
9 holder at a charge or cost less than offered or given to the public;

10 (8) Violation of any state or federal statute or administrative
11 ruling relating to funeral practice, except as provided in section 3
12 of this act;

13 (9) Knowingly concealing information concerning a violation of
14 this title.

15 **Sec. 16.** RCW 18.44.241 and 2000 c 171 s 12 are each amended to
16 read as follows:

17 The following criteria will be considered by the director when
18 deciding whether to grant a licensed escrow agent a waiver from the
19 errors and omissions policy requirement under RCW 18.44.201:

20 (1) Whether the director has determined pursuant to RCW 18.44.221
21 that an errors and omissions policy is not reasonably available to a
22 substantial number of licensed escrow agents;

23 (2) Whether purchasing an errors and omissions policy would be
24 cost-prohibitive for the licensed escrow agent requesting the
25 exemption;

26 (3) Whether a licensed escrow agent has willfully violated the
27 provisions of chapter 18.44 RCW, which violation thereby resulted in
28 the termination of the agent's certificate, or engaged in any other
29 conduct resulting in the termination of the escrow certificate;

30 (4) Whether a licensed escrow agent has paid claims directly or
31 through an errors and omissions carrier, exclusive of costs and
32 attorney fees, in excess of ten thousand dollars in the calendar year
33 preceding the year for which the waiver is requested;

34 (5) Whether a licensed escrow agent has paid claims directly or
35 through an errors or omissions insurance carrier, exclusive of costs
36 and attorney fees, totaling in excess of twenty thousand dollars in
37 the three calendar years preceding the calendar year for which the
38 exemption is requested; and

1 (6) Whether the licensed escrow agent has been convicted of a
2 crime involving honesty or moral turpitude, except as provided in
3 section 3 of this act.

4 These criteria are not intended to be a wholly inclusive list of
5 factors to be applied by the director when considering the merits of
6 a licensed escrow agent's request for a waiver of the required errors
7 and omissions policy.

8 **Sec. 17.** RCW 18.44.311 and 2010 c 34 s 4 are each amended to
9 read as follows:

10 (1) A licensed escrow agent may not directly or indirectly employ
11 a person who will be handling escrow transactions who has been
12 convicted of, or pled guilty or nolo contredre to, a felony or a
13 gross misdemeanor involving dishonesty within the last seven years,
14 except as provided in section 3 of this act.

15 (2) A licensed escrow agent may not directly or indirectly employ
16 a person who receives money for trust accounts, disburses funds, or
17 acts as a signatory on trust accounts if the person has shown a
18 disregard in the management of his or her financial condition in the
19 last three years.

20 (3) The director may adopt rules to implement this section.

21 **Sec. 18.** RCW 18.52.071 and 1996 c 271 s 1 are each amended to
22 read as follows:

23 The department shall issue a license to any person applying for a
24 nursing home administrator's license who meets the following
25 requirements:

26 (1) Successful completion of the requirements for a baccalaureate
27 degree from a recognized institution of higher learning and any
28 federal requirements;

29 (2) Successful completion of a practical experience requirement
30 as determined by the board;

31 (3) Successful completion of examinations administered or
32 approved by the board, or both, which shall be designed to test the
33 candidate's competence to administer a nursing home;

34 (4) At least twenty-one years of age; and

35 (5) Not having engaged in unprofessional conduct as defined in
36 RCW 18.130.180, except as provided in section 3 of this act, or being
37 unable to practice with reasonable skill and safety as defined in RCW

1 18.130.170. The board shall establish by rule what constitutes
2 adequate proof of meeting the above requirements.

3 A limited license indicating the limited extent of authority to
4 administer institutions conducted by and for those who rely upon
5 treatment by prayer or spiritual means in accordance with the creed
6 or tenets of any well-recognized church or religious denomination
7 shall be issued to individuals demonstrating membership in such
8 church or denomination. However, nothing in this chapter shall be
9 construed to require an applicant employed by such institution to
10 demonstrate proficiency in any medical techniques or to meet any
11 medical educational qualifications or medical standards not in accord
12 with the remedial care and treatment provided in such institutions.

13 **Sec. 19.** RCW 43.43.842 and 2014 c 88 s 1 are each amended to
14 read as follows:

15 (1)(a) The secretary of social and health services and the
16 secretary of health shall adopt additional requirements for the
17 licensure or relicensure of agencies, facilities, and licensed
18 individuals who provide care and treatment to vulnerable adults,
19 including nursing pools registered under chapter 18.52C RCW. These
20 additional requirements shall ensure that any person associated with
21 a licensed agency or facility having unsupervised access with a
22 vulnerable adult shall not be the respondent in an active protective
23 order under RCW 74.34.130, nor have been: (i) Convicted of a crime
24 against persons as defined in RCW 43.43.830, except as provided in
25 this section or except as provided in section 3 of this act; (ii)
26 convicted of crimes relating to financial exploitation as defined in
27 RCW 43.43.830, except as provided in this section or except as
28 provided in section 3 of this act; or (iii) found in any disciplinary
29 board final decision to have abused a vulnerable adult under RCW
30 43.43.830.

31 (b) A person associated with a licensed agency or facility who
32 has unsupervised access with a vulnerable adult shall make the
33 disclosures specified in RCW 43.43.834(2). The person shall make the
34 disclosures in writing, sign, and swear to the contents under penalty
35 of perjury. The person shall, in the disclosures, specify all crimes
36 against children or other persons, all crimes relating to financial
37 exploitation, and all crimes relating to drugs as defined in RCW
38 43.43.830, committed by the person.

1 (2) Except as provided in section 3 of this act, the rules
2 adopted under this section shall permit the licensee to consider the
3 criminal history of an applicant for employment in a licensed
4 facility when the applicant has one or more convictions for a past
5 offense and:

6 (a) The offense was simple assault, assault in the fourth degree,
7 or the same offense as it may be renamed, and three or more years
8 have passed between the most recent conviction and the date of
9 application for employment;

10 (b) The offense was prostitution, or the same offense as it may
11 be renamed, and three or more years have passed between the most
12 recent conviction and the date of application for employment;

13 (c) The offense was theft in the third degree, or the same
14 offense as it may be renamed, and three or more years have passed
15 between the most recent conviction and the date of application for
16 employment;

17 (d) The offense was theft in the second degree, or the same
18 offense as it may be renamed, and five or more years have passed
19 between the most recent conviction and the date of application for
20 employment;

21 (e) The offense was forgery, or the same offense as it may be
22 renamed, and five or more years have passed between the most recent
23 conviction and the date of application for employment;

24 (f) The department of social and health services reviewed the
25 employee's otherwise disqualifying criminal history through the
26 department of social and health services' background assessment
27 review team process conducted in 2002, and determined that such
28 employee could remain in a position covered by this section; or

29 (g) The otherwise disqualifying conviction or disposition has
30 been the subject of a pardon, annulment, or other equivalent
31 procedure.

32 The offenses set forth in (a) through (g) of this subsection do
33 not automatically disqualify an applicant from employment by a
34 licensee. Nothing in this section may be construed to require the
35 employment of any person against a licensee's judgment.

36 (3) In consultation with law enforcement personnel, the secretary
37 of social and health services and the secretary of health shall
38 investigate, or cause to be investigated, the conviction record and
39 the protection proceeding record information under this chapter of
40 the staff of each agency or facility under their respective

1 jurisdictions seeking licensure or relicensure. An individual
2 responding to a criminal background inquiry request from his or her
3 employer or potential employer shall disclose the information about
4 his or her criminal history under penalty of perjury. The secretaries
5 shall use the information solely for the purpose of determining
6 eligibility for licensure or relicensure. Criminal justice agencies
7 shall provide the secretaries such information as they may have and
8 that the secretaries may require for such purpose.

9 **Sec. 20.** RCW 18.64.165 and 2013 c 19 s 14 are each amended to
10 read as follows:

11 The commission shall have the power to refuse, suspend, or revoke
12 the license of any manufacturer, wholesaler, pharmacy, shopkeeper,
13 itinerant vendor, peddler, poison distributor, health care entity, or
14 precursor chemical distributor upon proof that:

15 (1) The license was procured through fraud, misrepresentation, or
16 deceit;

17 (2) Except as provided in section 3 of this act, the licensee has
18 violated or has permitted any employee to violate any of the laws of
19 this state or the United States relating to drugs, controlled
20 substances, cosmetics, or nonprescription drugs, or has violated any
21 of the rules and regulations of the commission or has been convicted
22 of a felony.

23 **Sec. 21.** RCW 18.88B.080 and 2012 c 164 s 501 are each amended to
24 read as follows:

25 A long-term care worker disqualified from working with vulnerable
26 persons under chapter 74.39A RCW may not be certified or maintain
27 certification as a home care aide under this chapter, except as
28 provided in section 3 of this act. To allow the department to satisfy
29 its certification responsibilities under this chapter, the department
30 of social and health services shall share the results of state and
31 federal background checks conducted pursuant to RCW 74.39A.056 with
32 the department. Neither department may share the federal background
33 check results with any other state agency or person.

34 **Sec. 22.** RCW 18.108.085 and 2012 c 137 s 14 are each amended to
35 read as follows:

36 (1) In addition to any other authority provided by law, the
37 secretary may:

1 (a) Adopt rules, in accordance with chapter 34.05 RCW necessary
2 to implement this chapter;

3 (b) Set all license, certification, examination, and renewal fees
4 in accordance with RCW 43.70.250;

5 (c) Establish forms and procedures necessary to administer this
6 chapter;

7 (d) Issue a massage practitioner's license to any applicant who
8 has met the education, training, and examination requirements for
9 licensure and deny licensure to applicants who do not meet the
10 requirements of this chapter;

11 (e) Issue a reflexology certification to any applicant who has
12 met the requirements for certification and deny certification to
13 applicants who do not meet the requirements of this chapter; and

14 (f) Hire clerical, administrative, and investigative staff as
15 necessary to implement this chapter.

16 (2) The Uniform Disciplinary Act, chapter 18.130 RCW, governs
17 unlicensed and uncertified practice, the issuance and denial of
18 licenses and certifications, and the disciplining of persons under
19 this chapter. The secretary shall be the disciplining authority under
20 this chapter.

21 (3) Any license or certification issued under this chapter to a
22 person who is or has been convicted of violating RCW 9A.88.030,
23 9A.88.070, 9A.88.080, or 9A.88.090 or equivalent local ordinances
24 shall automatically be revoked by the secretary upon receipt of a
25 certified copy of the court documents reflecting such conviction,
26 except as provided in section 3 of this act. No further hearing or
27 procedure is required, and the secretary has no discretion with
28 regard to the revocation of the license or certification. The
29 revocation shall be effective even though such conviction may be
30 under appeal, or the time period for such appeal has not elapsed.
31 However, upon presentation of a final appellate decision overturning
32 such conviction, the license or certification shall be reinstated,
33 unless grounds for disciplinary action have been found under chapter
34 18.130 RCW. No license or certification may be granted under this
35 chapter to any person who has been convicted of violating RCW
36 9A.88.030, 9A.88.070, 9A.88.080, or 9A.88.090 or equivalent local
37 ordinances within the eight years immediately preceding the date of
38 application, except as provided in section 3 of this act. For
39 purposes of this subsection, "convicted" does not include a
40 conviction that has been the subject of a pardon, annulment, or other

1 equivalent procedure based on a finding of innocence, but does
2 include convictions for offenses for which the defendant received a
3 deferred or suspended sentence, unless the record has been expunged
4 according to law.

5 (4) The secretary shall keep an official record of all
6 proceedings under this chapter, a part of which record shall consist
7 of a register of all applicants for licensure or certification under
8 this chapter, with the result of each application.

9 **Sec. 23.** RCW 18.130.055 and 2008 c 134 s 19 are each amended to
10 read as follows:

11 (1) The disciplining authority may deny an application for
12 licensure or grant a license with conditions if the applicant:

13 (a) Has had his or her license to practice any health care
14 profession suspended, revoked, or restricted, by competent authority
15 in any state, federal, or foreign jurisdiction;

16 (b) Has committed any act defined as unprofessional conduct for a
17 license holder under RCW 18.130.180, except as provided in section 3
18 of this act;

19 (c) Has been convicted or is subject to current prosecution or
20 pending charges of a crime involving moral turpitude or a crime
21 identified in RCW 43.43.830, except as provided in section 3 of this
22 act. For purposes of this section, conviction includes all instances
23 in which a plea of guilty or nolo contendere is the basis for the
24 conviction and all proceedings in which the prosecution or sentence
25 has been deferred or suspended. At the request of an applicant for an
26 original license whose conviction is under appeal, the disciplining
27 authority may defer decision upon the application during the pendency
28 of such a prosecution or appeal;

29 (d) Fails to prove that he or she is qualified in accordance with
30 the provisions of this chapter, the chapters identified in RCW
31 18.130.040(2), or the rules adopted by the disciplining authority; or

32 (e) Is not able to practice with reasonable skill and safety to
33 consumers by reason of any mental or physical condition.

34 (i) The disciplining authority may require the applicant, at his
35 or her own expense, to submit to a mental, physical, or psychological
36 examination by one or more licensed health professionals designated
37 by the disciplining authority. The disciplining authority shall
38 provide written notice of its requirement for a mental or physical
39 examination that includes a statement of the specific conduct, event,

1 or circumstances justifying an examination and a statement of the
2 nature, purpose, scope, and content of the intended examination. If
3 the applicant fails to submit to the examination or provide the
4 results of the examination or any required waivers, the disciplining
5 authority may deny the application.

6 (ii) An applicant governed by this chapter is deemed to have
7 given consent to submit to a mental, physical, or psychological
8 examination when directed in writing by the disciplining authority
9 and further to have waived all objections to the admissibility or use
10 of the examining health professional's testimony or examination
11 reports by the disciplining authority on the grounds that the
12 testimony or reports constitute privileged communications.

13 (2) The provisions of RCW 9.95.240 and chapter 9.96A RCW do not
14 apply to a decision to deny a license under this section.

15 (3) The disciplining authority shall give written notice to the
16 applicant of the decision to deny a license or grant a license with
17 conditions in response to an application for a license. The notice
18 must state the grounds and factual basis for the action and be served
19 upon the applicant.

20 (4) A license applicant who is aggrieved by the decision to deny
21 the license or grant the license with conditions has the right to an
22 adjudicative proceeding. The application for adjudicative proceeding
23 must be in writing, state the basis for contesting the adverse
24 action, include a copy of the adverse notice, and be served on and
25 received by the department within twenty-eight days of the decision.
26 The license applicant has the burden to establish, by a preponderance
27 of evidence, that the license applicant is qualified in accordance
28 with the provisions of this chapter, the chapters identified in RCW
29 18.130.040(2), and the rules adopted by the disciplining authority.

30 **Sec. 24.** RCW 18.130.050 and 2013 c 109 s 1 and 2013 c 86 s 2 are
31 each reenacted and amended to read as follows:

32 Except as provided in RCW 18.130.062, the disciplining authority
33 has the following authority:

34 (1) To adopt, amend, and rescind such rules as are deemed
35 necessary to carry out this chapter;

36 (2) To investigate all complaints or reports of unprofessional
37 conduct as defined in this chapter;

38 (3) To hold hearings as provided in this chapter;

1 (4) To issue subpoenas and administer oaths in connection with
2 any investigation, consideration of an application for license,
3 hearing, or proceeding held under this chapter;

4 (5) To take or cause depositions to be taken and use other
5 discovery procedures as needed in any investigation, hearing, or
6 proceeding held under this chapter;

7 (6) To compel attendance of witnesses at hearings;

8 (7) In the course of investigating a complaint or report of
9 unprofessional conduct, to conduct practice reviews and to issue
10 citations and assess fines for failure to produce documents, records,
11 or other items in accordance with RCW 18.130.230;

12 (8) To take emergency action ordering summary suspension of a
13 license, or restriction or limitation of the license holder's
14 practice pending proceedings by the disciplining authority. Within
15 fourteen days of a request by the affected license holder, the
16 disciplining authority must provide a show cause hearing in
17 accordance with the requirements of RCW 18.130.135. In addition to
18 the authority in this subsection, a disciplining authority shall,
19 except as provided in section 3 of this act:

20 (a) Consistent with RCW 18.130.370, issue a summary suspension of
21 the license or temporary practice permit of a license holder
22 prohibited from practicing a health care profession in another state,
23 federal, or foreign jurisdiction because of an act of unprofessional
24 conduct that is substantially equivalent to an act of unprofessional
25 conduct prohibited by this chapter or any of the chapters specified
26 in RCW 18.130.040. The summary suspension remains in effect until
27 proceedings by the Washington disciplining authority have been
28 completed;

29 (b) Consistent with RCW 18.130.400, issue a summary suspension of
30 the license or temporary practice permit if, under RCW 74.39A.051,
31 the license holder is prohibited from employment in the care of
32 vulnerable adults based upon a department of social and health
33 services' final finding of abuse or neglect of a minor or abuse,
34 abandonment, neglect, or financial exploitation of a vulnerable
35 adult. The summary suspension remains in effect until proceedings by
36 the disciplining authority have been completed;

37 (9) To conduct show cause hearings in accordance with RCW
38 18.130.062 or 18.130.135 to review an action taken by the
39 disciplining authority to suspend a license or restrict or limit a

1 license holder's practice pending proceedings by the disciplining
2 authority;

3 (10) To use a presiding officer as authorized in RCW
4 18.130.095(3) or the office of administrative hearings as authorized
5 in chapter 34.12 RCW to conduct hearings. Disciplining authorities
6 identified in RCW 18.130.040(2) shall make the final decision
7 regarding disposition of the license unless the disciplining
8 authority elects to delegate in writing the final decision to the
9 presiding officer. Disciplining authorities identified in RCW
10 18.130.040(2)(b) may not delegate the final decision regarding
11 disposition of the license or imposition of sanctions to a presiding
12 officer in any case pertaining to standards of practice or where
13 clinical expertise is necessary, including deciding any motion that
14 results in dismissal of any allegation contained in the statement of
15 charges. Presiding officers acting on behalf of the secretary shall
16 enter initial orders. The secretary may, by rule, provide that
17 initial orders in specified classes of cases may become final without
18 further agency action unless, within a specified time period:

19 (a) The secretary upon his or her own motion determines that the
20 initial order should be reviewed; or

21 (b) A party to the proceedings files a petition for
22 administrative review of the initial order;

23 (11) To use individual members of the boards to direct
24 investigations and to authorize the issuance of a citation under
25 subsection (7) of this section. However, the member of the board
26 shall not subsequently participate in the hearing of the case;

27 (12) To enter into contracts for professional services determined
28 to be necessary for adequate enforcement of this chapter;

29 (13) To contract with license holders or other persons or
30 organizations to provide services necessary for the monitoring and
31 supervision of license holders who are placed on probation, whose
32 professional activities are restricted, or who are for any authorized
33 purpose subject to monitoring by the disciplining authority;

34 (14) To adopt standards of professional conduct or practice;

35 (15) To grant or deny license applications, and in the event of a
36 finding of unprofessional conduct by an applicant or license holder,
37 to impose any sanction against a license applicant or license holder
38 provided by this chapter. After January 1, 2009, all sanctions must
39 be issued in accordance with RCW 18.130.390;

1 (16) To restrict or place conditions on the practice of new
2 licensees in order to protect the public and promote the safety of
3 and confidence in the health care system;

4 (17) To designate individuals authorized to sign subpoenas and
5 statements of charges;

6 (18) To establish panels consisting of three or more members of
7 the board to perform any duty or authority within the board's
8 jurisdiction under this chapter;

9 (19) To review and audit the records of licensed health
10 facilities' or services' quality assurance committee decisions in
11 which a license holder's practice privilege or employment is
12 terminated or restricted. Each health facility or service shall
13 produce and make accessible to the disciplining authority the
14 appropriate records and otherwise facilitate the review and audit.
15 Information so gained shall not be subject to discovery or
16 introduction into evidence in any civil action pursuant to RCW
17 70.41.200(3).

18 **Sec. 25.** RCW 18.235.110 and 2007 c 256 s 18 are each amended to
19 read as follows:

20 (1) Upon finding unprofessional conduct, except as provided in
21 section 3 of this act, the disciplinary authority may issue an order
22 providing for one or any combination of the following:

23 (a) Revocation of the license for an interval of time;

24 (b) Suspension of the license for a fixed or indefinite term;

25 (c) Restriction or limitation of the practice;

26 (d) Satisfactory completion of a specific program of remedial
27 education or treatment;

28 (e) Monitoring of the practice in a manner directed by the
29 disciplinary authority;

30 (f) Censure or reprimand;

31 (g) Compliance with conditions of probation for a designated
32 period of time;

33 (h) Payment of a fine for each violation found by the
34 disciplinary authority, not to exceed five thousand dollars per
35 violation. The disciplinary authority must consider aggravating or
36 mitigating circumstances in assessing any fine. Funds received must
37 be deposited in the related program account;

38 (i) Denial of an initial or renewal license application for an
39 interval of time; or

1 (j) Other corrective action.

2 (2) The disciplinary authority may require reimbursement to the
3 disciplinary authority for the investigative costs incurred in
4 investigating the matter that resulted in issuance of an order under
5 this section, but only if any of the sanctions in subsection (1)(a)
6 through (j) of this section is ordered.

7 (3) Any of the actions under this section may be totally or
8 partly stayed by the disciplinary authority. In determining what
9 action is appropriate, the disciplinary authority must first consider
10 what sanctions are necessary to protect the public health, safety, or
11 welfare. Only after these provisions have been made may the
12 disciplinary authority consider and include in the order requirements
13 designed to rehabilitate the license holder or applicant. All costs
14 associated with compliance with orders issued under this section are
15 the obligation of the license holder or applicant.

16 (4) The licensee or applicant may enter into a stipulated
17 disposition of charges that includes one or more of the sanctions of
18 this section, but only after a statement of charges has been issued
19 and the licensee has been afforded the opportunity for a hearing and
20 has elected on the record to forego such a hearing. The stipulation
21 shall either contain one or more specific findings of unprofessional
22 conduct or a statement by the licensee acknowledging that evidence is
23 sufficient to justify one or more specified findings of
24 unprofessional conduct. The stipulations entered into under this
25 subsection are considered formal disciplinary action for all
26 purposes.

27 **Sec. 26.** RCW 18.145.120 and 1995 c 27 s 11 are each amended to
28 read as follows:

29 (1) Upon receipt of complaints against court reporters, the
30 director shall investigate and evaluate the complaint to determine if
31 disciplinary action is appropriate. The director shall hold
32 disciplinary hearings pursuant to chapter 34.05 RCW.

33 (2) After a hearing conducted under chapter 34.05 RCW and upon a
34 finding that a certificate holder or applicant has committed
35 unprofessional conduct or is unable to practice with reasonable skill
36 and safety due to a physical or mental condition, except as provided
37 in section 3 of this act, the director may issue an order providing
38 for one or any combination of the following:

39 (a) Revocation of the certification;

- 1 (b) Suspension of the certificate for a fixed or indefinite term;
2 (c) Restriction or limitation of the practice;
3 (d) Requiring the satisfactory completion of a specific program
4 or remedial education;
5 (e) The monitoring of the practice by a supervisor approved by
6 the director;
7 (f) Censure or reprimand;
8 (g) Compliance with conditions of probation for a designated
9 period of time;
10 (h) Denial of the certification request;
11 (i) Corrective action;
12 (j) Refund of fees billed to or collected from the consumer.

13 Any of the actions under this section may be totally or partly
14 stayed by the director. In determining what action is appropriate,
15 the director shall consider sanctions necessary to protect the
16 public, after which the director may consider and include in the
17 order requirements designed to rehabilitate the certificate holder or
18 applicant. All costs associated with compliance to orders issued
19 under this section are the obligation of the certificate holder or
20 applicant.

21 **Sec. 27.** RCW 9.94A.030 and 2012 c 143 s 1 are each amended to
22 read as follows:

23 Unless the context clearly requires otherwise, the definitions in
24 this section apply throughout this chapter.

25 (1) "Board" means the indeterminate sentence review board created
26 under chapter 9.95 RCW.

27 (2) "Collect," or any derivative thereof, "collect and remit," or
28 "collect and deliver," when used with reference to the department,
29 means that the department, either directly or through a collection
30 agreement authorized by RCW 9.94A.760, is responsible for monitoring
31 and enforcing the offender's sentence with regard to the legal
32 financial obligation, receiving payment thereof from the offender,
33 and, consistent with current law, delivering daily the entire payment
34 to the superior court clerk without depositing it in a departmental
35 account.

36 (3) "Commission" means the sentencing guidelines commission.

37 (4) "Community corrections officer" means an employee of the
38 department who is responsible for carrying out specific duties in

1 supervision of sentenced offenders and monitoring of sentence
2 conditions.

3 (5) "Community custody" means that portion of an offender's
4 sentence of confinement in lieu of earned release time or imposed as
5 part of a sentence under this chapter and served in the community
6 subject to controls placed on the offender's movement and activities
7 by the department.

8 (6) "Community protection zone" means the area within eight
9 hundred eighty feet of the facilities and grounds of a public or
10 private school.

11 (7) "Community restitution" means compulsory service, without
12 compensation, performed for the benefit of the community by the
13 offender.

14 (8) "Confinement" means total or partial confinement.

15 (9) "Conviction" means an adjudication of guilt pursuant to Title
16 10 or 13 RCW and includes a verdict of guilty, a finding of guilty,
17 and acceptance of a plea of guilty.

18 (10) "Crime-related prohibition" means an order of a court
19 prohibiting conduct that directly relates to the circumstances of the
20 crime for which the offender has been convicted, and shall not be
21 construed to mean orders directing an offender affirmatively to
22 participate in rehabilitative programs or to otherwise perform
23 affirmative conduct. However, affirmative acts necessary to monitor
24 compliance with the order of a court may be required by the
25 department.

26 (11) "Criminal history" means the list of a defendant's prior
27 convictions and juvenile adjudications, whether in this state, in
28 federal court, or elsewhere, and any issued certificates of
29 restoration of opportunity pursuant to section 3 of this act.

30 (a) The history shall include, where known, for each conviction
31 (i) whether the defendant has been placed on probation and the length
32 and terms thereof; and (ii) whether the defendant has been
33 incarcerated and the length of incarceration.

34 (b) A conviction may be removed from a defendant's criminal
35 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,
36 9.95.240, or a similar out-of-state statute, or if the conviction has
37 been vacated pursuant to a governor's pardon.

38 (c) The determination of a defendant's criminal history is
39 distinct from the determination of an offender score. A prior
40 conviction that was not included in an offender score calculated

1 pursuant to a former version of the sentencing reform act remains
2 part of the defendant's criminal history.

3 (12) "Criminal street gang" means any ongoing organization,
4 association, or group of three or more persons, whether formal or
5 informal, having a common name or common identifying sign or symbol,
6 having as one of its primary activities the commission of criminal
7 acts, and whose members or associates individually or collectively
8 engage in or have engaged in a pattern of criminal street gang
9 activity. This definition does not apply to employees engaged in
10 concerted activities for their mutual aid and protection, or to the
11 activities of labor and bona fide nonprofit organizations or their
12 members or agents.

13 (13) "Criminal street gang associate or member" means any person
14 who actively participates in any criminal street gang and who
15 intentionally promotes, furthers, or assists in any criminal act by
16 the criminal street gang.

17 (14) "Criminal street gang-related offense" means any felony or
18 misdemeanor offense, whether in this state or elsewhere, that is
19 committed for the benefit of, at the direction of, or in association
20 with any criminal street gang, or is committed with the intent to
21 promote, further, or assist in any criminal conduct by the gang, or
22 is committed for one or more of the following reasons:

23 (a) To gain admission, prestige, or promotion within the gang;

24 (b) To increase or maintain the gang's size, membership,
25 prestige, dominance, or control in any geographical area;

26 (c) To exact revenge or retribution for the gang or any member of
27 the gang;

28 (d) To obstruct justice, or intimidate or eliminate any witness
29 against the gang or any member of the gang;

30 (e) To directly or indirectly cause any benefit, aggrandizement,
31 gain, profit, or other advantage for the gang, its reputation,
32 influence, or membership; or

33 (f) To provide the gang with any advantage in, or any control or
34 dominance over any criminal market sector, including, but not limited
35 to, manufacturing, delivering, or selling any controlled substance
36 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen
37 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88
38 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual
39 abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter
40 9.68 RCW).

1 (15) "Day fine" means a fine imposed by the sentencing court that
2 equals the difference between the offender's net daily income and the
3 reasonable obligations that the offender has for the support of the
4 offender and any dependents.

5 (16) "Day reporting" means a program of enhanced supervision
6 designed to monitor the offender's daily activities and compliance
7 with sentence conditions, and in which the offender is required to
8 report daily to a specific location designated by the department or
9 the sentencing court.

10 (17) "Department" means the department of corrections.

11 (18) "Determinate sentence" means a sentence that states with
12 exactitude the number of actual years, months, or days of total
13 confinement, of partial confinement, of community custody, the number
14 of actual hours or days of community restitution work, or dollars or
15 terms of a legal financial obligation. The fact that an offender
16 through earned release can reduce the actual period of confinement
17 shall not affect the classification of the sentence as a determinate
18 sentence.

19 (19) "Disposable earnings" means that part of the earnings of an
20 offender remaining after the deduction from those earnings of any
21 amount required by law to be withheld. For the purposes of this
22 definition, "earnings" means compensation paid or payable for
23 personal services, whether denominated as wages, salary, commission,
24 bonuses, or otherwise, and, notwithstanding any other provision of
25 law making the payments exempt from garnishment, attachment, or other
26 process to satisfy a court-ordered legal financial obligation,
27 specifically includes periodic payments pursuant to pension or
28 retirement programs, or insurance policies of any type, but does not
29 include payments made under Title 50 RCW, except as provided in RCW
30 50.40.020 and 50.40.050, or Title 74 RCW.

31 (20) "Domestic violence" has the same meaning as defined in RCW
32 10.99.020 and 26.50.010.

33 (21) "Drug offender sentencing alternative" is a sentencing
34 option available to persons convicted of a felony offense other than
35 a violent offense or a sex offense and who are eligible for the
36 option under RCW 9.94A.660.

37 (22) "Drug offense" means:

38 (a) Any felony violation of chapter 69.50 RCW except possession
39 of a controlled substance (RCW 69.50.4013) or forged prescription for
40 a controlled substance (RCW 69.50.403);

1 (b) Any offense defined as a felony under federal law that
2 relates to the possession, manufacture, distribution, or
3 transportation of a controlled substance; or

4 (c) Any out-of-state conviction for an offense that under the
5 laws of this state would be a felony classified as a drug offense
6 under (a) of this subsection.

7 (23) "Earned release" means earned release from confinement as
8 provided in RCW 9.94A.728.

9 (24) "Escape" means:

10 (a) Sexually violent predator escape (RCW 9A.76.115), escape in
11 the first degree (RCW 9A.76.110), escape in the second degree (RCW
12 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
13 willful failure to return from work release (RCW 72.65.070), or
14 willful failure to be available for supervision by the department
15 while in community custody (RCW 72.09.310); or

16 (b) Any federal or out-of-state conviction for an offense that
17 under the laws of this state would be a felony classified as an
18 escape under (a) of this subsection.

19 (25) "Felony traffic offense" means:

20 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
21 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-
22 run injury-accident (RCW 46.52.020(4)), felony driving while under
23 the influence of intoxicating liquor or any drug (RCW 46.61.502(6)),
24 or felony physical control of a vehicle while under the influence of
25 intoxicating liquor or any drug (RCW 46.61.504(6)); or

26 (b) Any federal or out-of-state conviction for an offense that
27 under the laws of this state would be a felony classified as a felony
28 traffic offense under (a) of this subsection.

29 (26) "Fine" means a specific sum of money ordered by the
30 sentencing court to be paid by the offender to the court over a
31 specific period of time.

32 (27) "First-time offender" means any person who has no prior
33 convictions for a felony and is eligible for the first-time offender
34 waiver under RCW 9.94A.650.

35 (28) "Home detention" means a program of partial confinement
36 available to offenders wherein the offender is confined in a private
37 residence subject to electronic surveillance.

38 (29) "Homelessness" or "homeless" means a condition where an
39 individual lacks a fixed, regular, and adequate nighttime residence
40 and who has a primary nighttime residence that is:

1 (a) A supervised, publicly or privately operated shelter designed
2 to provide temporary living accommodations;

3 (b) A public or private place not designed for, or ordinarily
4 used as, a regular sleeping accommodation for human beings; or

5 (c) A private residence where the individual stays as a transient
6 invitee.

7 (30) "Legal financial obligation" means a sum of money that is
8 ordered by a superior court of the state of Washington for legal
9 financial obligations which may include restitution to the victim,
10 statutorily imposed crime victims' compensation fees as assessed
11 pursuant to RCW 7.68.035, court costs, county or interlocal drug
12 funds, court-appointed attorneys' fees, and costs of defense, fines,
13 and any other financial obligation that is assessed to the offender
14 as a result of a felony conviction. Upon conviction for vehicular
15 assault while under the influence of intoxicating liquor or any drug,
16 RCW 46.61.522(1)(b), or vehicular homicide while under the influence
17 of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal
18 financial obligations may also include payment to a public agency of
19 the expense of an emergency response to the incident resulting in the
20 conviction, subject to RCW 38.52.430.

21 (31) "Minor child" means a biological or adopted child of the
22 offender who is under age eighteen at the time of the offender's
23 current offense.

24 (32) "Most serious offense" means any of the following felonies
25 or a felony attempt to commit any of the following felonies:

26 (a) Any felony defined under any law as a class A felony or
27 criminal solicitation of or criminal conspiracy to commit a class A
28 felony;

29 (b) Assault in the second degree;

30 (c) Assault of a child in the second degree;

31 (d) Child molestation in the second degree;

32 (e) Controlled substance homicide;

33 (f) Extortion in the first degree;

34 (g) Incest when committed against a child under age fourteen;

35 (h) Indecent liberties;

36 (i) Kidnapping in the second degree;

37 (j) Leading organized crime;

38 (k) Manslaughter in the first degree;

39 (l) Manslaughter in the second degree;

40 (m) Promoting prostitution in the first degree;

1 (n) Rape in the third degree;
2 (o) Robbery in the second degree;
3 (p) Sexual exploitation;
4 (q) Vehicular assault, when caused by the operation or driving of
5 a vehicle by a person while under the influence of intoxicating
6 liquor or any drug or by the operation or driving of a vehicle in a
7 reckless manner;
8 (r) Vehicular homicide, when proximately caused by the driving of
9 any vehicle by any person while under the influence of intoxicating
10 liquor or any drug as defined by RCW 46.61.502, or by the operation
11 of any vehicle in a reckless manner;
12 (s) Any other class B felony offense with a finding of sexual
13 motivation;
14 (t) Any other felony with a deadly weapon verdict under RCW
15 9.94A.825;
16 (u) Any felony offense in effect at any time prior to December 2,
17 1993, that is comparable to a most serious offense under this
18 subsection, or any federal or out-of-state conviction for an offense
19 that under the laws of this state would be a felony classified as a
20 most serious offense under this subsection;
21 (v)(i) A prior conviction for indecent liberties under RCW
22 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex.
23 sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b),
24 and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW
25 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986,
26 until July 1, 1988;
27 (ii) A prior conviction for indecent liberties under RCW
28 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
29 if: (A) The crime was committed against a child under the age of
30 fourteen; or (B) the relationship between the victim and perpetrator
31 is included in the definition of indecent liberties under RCW
32 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27,
33 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25,
34 1993, through July 27, 1997;
35 (w) Any out-of-state conviction for a felony offense with a
36 finding of sexual motivation if the minimum sentence imposed was ten
37 years or more; provided that the out-of-state felony offense must be
38 comparable to a felony offense under this title and Title 9A RCW and
39 the out-of-state definition of sexual motivation must be comparable
40 to the definition of sexual motivation contained in this section.

1 (33) "Nonviolent offense" means an offense which is not a violent
2 offense.

3 (34) "Offender" means a person who has committed a felony
4 established by state law and is eighteen years of age or older or is
5 less than eighteen years of age but whose case is under superior
6 court jurisdiction under RCW 13.04.030 or has been transferred by the
7 appropriate juvenile court to a criminal court pursuant to RCW
8 13.40.110. In addition, for the purpose of community custody
9 requirements under this chapter, "offender" also means a misdemeanor
10 or gross misdemeanor probationer ordered by a superior court to
11 probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and
12 supervised by the department pursuant to RCW 9.94A.501 and
13 9.94A.5011. Throughout this chapter, the terms "offender" and
14 "defendant" are used interchangeably.

15 (35) "Partial confinement" means confinement for no more than one
16 year in a facility or institution operated or utilized under contract
17 by the state or any other unit of government, or, if home detention
18 or work crew has been ordered by the court or home detention has been
19 ordered by the department as part of the parenting program, in an
20 approved residence, for a substantial portion of each day with the
21 balance of the day spent in the community. Partial confinement
22 includes work release, home detention, work crew, and a combination
23 of work crew and home detention.

24 (36) "Pattern of criminal street gang activity" means:

25 (a) The commission, attempt, conspiracy, or solicitation of, or
26 any prior juvenile adjudication of or adult conviction of, two or
27 more of the following criminal street gang-related offenses:

28 (i) Any "serious violent" felony offense as defined in this
29 section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a
30 Child 1 (RCW 9A.36.120);

31 (ii) Any "violent" offense as defined by this section, excluding
32 Assault of a Child 2 (RCW 9A.36.130);

33 (iii) Deliver or Possession with Intent to Deliver a Controlled
34 Substance (chapter 69.50 RCW);

35 (iv) Any violation of the firearms and dangerous weapon act
36 (chapter 9.41 RCW);

37 (v) Theft of a Firearm (RCW 9A.56.300);

38 (vi) Possession of a Stolen Firearm (RCW 9A.56.310);

39 (vii) Malicious Harassment (RCW 9A.36.080);

1 (viii) Harassment where a subsequent violation or deadly threat
2 is made (RCW 9A.46.020(2)(b));

3 (ix) Criminal Gang Intimidation (RCW 9A.46.120);

4 (x) Any felony conviction by a person eighteen years of age or
5 older with a special finding of involving a juvenile in a felony
6 offense under RCW 9.94A.833;

7 (xi) Residential Burglary (RCW 9A.52.025);

8 (xii) Burglary 2 (RCW 9A.52.030);

9 (xiii) Malicious Mischief 1 (RCW 9A.48.070);

10 (xiv) Malicious Mischief 2 (RCW 9A.48.080);

11 (xv) Theft of a Motor Vehicle (RCW 9A.56.065);

12 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);

13 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW
14 9A.56.070);

15 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW
16 9A.56.075);

17 (xix) Extortion 1 (RCW 9A.56.120);

18 (xx) Extortion 2 (RCW 9A.56.130);

19 (xxi) Intimidating a Witness (RCW 9A.72.110);

20 (xxii) Tampering with a Witness (RCW 9A.72.120);

21 (xxiii) Reckless Endangerment (RCW 9A.36.050);

22 (xxiv) Coercion (RCW 9A.36.070);

23 (xxv) Harassment (RCW 9A.46.020); or

24 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);

25 (b) That at least one of the offenses listed in (a) of this
26 subsection shall have occurred after July 1, 2008;

27 (c) That the most recent committed offense listed in (a) of this
28 subsection occurred within three years of a prior offense listed in
29 (a) of this subsection; and

30 (d) Of the offenses that were committed in (a) of this
31 subsection, the offenses occurred on separate occasions or were
32 committed by two or more persons.

33 (37) "Persistent offender" is an offender who:

34 (a)(i) Has been convicted in this state of any felony considered
35 a most serious offense; and

36 (ii) Has, before the commission of the offense under (a) of this
37 subsection, been convicted as an offender on at least two separate
38 occasions, whether in this state or elsewhere, of felonies that under
39 the laws of this state would be considered most serious offenses and
40 would be included in the offender score under RCW 9.94A.525; provided

1 that of the two or more previous convictions, at least one conviction
2 must have occurred before the commission of any of the other most
3 serious offenses for which the offender was previously convicted; or

4 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
5 of a child in the first degree, child molestation in the first
6 degree, rape in the second degree, rape of a child in the second
7 degree, or indecent liberties by forcible compulsion; (B) any of the
8 following offenses with a finding of sexual motivation: Murder in the
9 first degree, murder in the second degree, homicide by abuse,
10 kidnapping in the first degree, kidnapping in the second degree,
11 assault in the first degree, assault in the second degree, assault of
12 a child in the first degree, assault of a child in the second degree,
13 or burglary in the first degree; or (C) an attempt to commit any
14 crime listed in this subsection (37)(b)(i); and

15 (ii) Has, before the commission of the offense under (b)(i) of
16 this subsection, been convicted as an offender on at least one
17 occasion, whether in this state or elsewhere, of an offense listed in
18 (b)(i) of this subsection or any federal or out-of-state offense or
19 offense under prior Washington law that is comparable to the offenses
20 listed in (b)(i) of this subsection. A conviction for rape of a child
21 in the first degree constitutes a conviction under (b)(i) of this
22 subsection only when the offender was sixteen years of age or older
23 when the offender committed the offense. A conviction for rape of a
24 child in the second degree constitutes a conviction under (b)(i) of
25 this subsection only when the offender was eighteen years of age or
26 older when the offender committed the offense.

27 (38) "Predatory" means: (a) The perpetrator of the crime was a
28 stranger to the victim, as defined in this section; (b) the
29 perpetrator established or promoted a relationship with the victim
30 prior to the offense and the victimization of the victim was a
31 significant reason the perpetrator established or promoted the
32 relationship; or (c) the perpetrator was: (i) A teacher, counselor,
33 volunteer, or other person in authority in any public or private
34 school and the victim was a student of the school under his or her
35 authority or supervision. For purposes of this subsection, "school"
36 does not include home-based instruction as defined in RCW
37 28A.225.010; (ii) a coach, trainer, volunteer, or other person in
38 authority in any recreational activity and the victim was a
39 participant in the activity under his or her authority or
40 supervision; (iii) a pastor, elder, volunteer, or other person in

1 authority in any church or religious organization, and the victim was
2 a member or participant of the organization under his or her
3 authority; or (iv) a teacher, counselor, volunteer, or other person
4 in authority providing home-based instruction and the victim was a
5 student receiving home-based instruction while under his or her
6 authority or supervision. For purposes of this subsection: (A) "Home-
7 based instruction" has the same meaning as defined in RCW
8 28A.225.010; and (B) "teacher, counselor, volunteer, or other person
9 in authority" does not include the parent or legal guardian of the
10 victim.

11 (39) "Private school" means a school regulated under chapter
12 28A.195 or 28A.205 RCW.

13 (40) "Public school" has the same meaning as in RCW 28A.150.010.

14 (41) "Repetitive domestic violence offense" means any:

15 (a)(i) Domestic violence assault that is not a felony offense
16 under RCW 9A.36.041;

17 (ii) Domestic violence violation of a no-contact order under
18 chapter 10.99 RCW that is not a felony offense;

19 (iii) Domestic violence violation of a protection order under
20 chapter 26.09, 26.10, 26.26, or 26.50 RCW that is not a felony
21 offense;

22 (iv) Domestic violence harassment offense under RCW 9A.46.020
23 that is not a felony offense; or

24 (v) Domestic violence stalking offense under RCW 9A.46.110 that
25 is not a felony offense; or

26 (b) Any federal, out-of-state, tribal court, military, county, or
27 municipal conviction for an offense that under the laws of this state
28 would be classified as a repetitive domestic violence offense under
29 (a) of this subsection.

30 (42) "Restitution" means a specific sum of money ordered by the
31 sentencing court to be paid by the offender to the court over a
32 specified period of time as payment of damages. The sum may include
33 both public and private costs.

34 (43) "Risk assessment" means the application of the risk
35 instrument recommended to the department by the Washington state
36 institute for public policy as having the highest degree of
37 predictive accuracy for assessing an offender's risk of reoffense.

38 (44) "Serious traffic offense" means:

39 (a) Nonfelony driving while under the influence of intoxicating
40 liquor or any drug (RCW 46.61.502), nonfelony actual physical control

1 while under the influence of intoxicating liquor or any drug (RCW
2 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an
3 attended vehicle (RCW 46.52.020(5)); or

4 (b) Any federal, out-of-state, county, or municipal conviction
5 for an offense that under the laws of this state would be classified
6 as a serious traffic offense under (a) of this subsection.

7 (45) "Serious violent offense" is a subcategory of violent
8 offense and means:

9 (a)(i) Murder in the first degree;
10 (ii) Homicide by abuse;
11 (iii) Murder in the second degree;
12 (iv) Manslaughter in the first degree;
13 (v) Assault in the first degree;
14 (vi) Kidnapping in the first degree;
15 (vii) Rape in the first degree;
16 (viii) Assault of a child in the first degree; or
17 (ix) An attempt, criminal solicitation, or criminal conspiracy to
18 commit one of these felonies; or

19 (b) Any federal or out-of-state conviction for an offense that
20 under the laws of this state would be a felony classified as a
21 serious violent offense under (a) of this subsection.

22 (46) "Sex offense" means:

23 (a)(i) A felony that is a violation of chapter 9A.44 RCW other
24 than RCW 9A.44.132;

25 (ii) A violation of RCW 9A.64.020;

26 (iii) A felony that is a violation of chapter 9.68A RCW other
27 than RCW 9.68A.080;

28 (iv) A felony that is, under chapter 9A.28 RCW, a criminal
29 attempt, criminal solicitation, or criminal conspiracy to commit such
30 crimes; or

31 (v) A felony violation of RCW 9A.44.132(1) (failure to register)
32 if the person has been convicted of violating RCW 9A.44.132(1)
33 (failure to register) on at least one prior occasion;

34 (b) Any conviction for a felony offense in effect at any time
35 prior to July 1, 1976, that is comparable to a felony classified as a
36 sex offense in (a) of this subsection;

37 (c) A felony with a finding of sexual motivation under RCW
38 9.94A.835 or 13.40.135; or

1 (d) Any federal or out-of-state conviction for an offense that
2 under the laws of this state would be a felony classified as a sex
3 offense under (a) of this subsection.

4 (47) "Sexual motivation" means that one of the purposes for which
5 the defendant committed the crime was for the purpose of his or her
6 sexual gratification.

7 (48) "Standard sentence range" means the sentencing court's
8 discretionary range in imposing a nonappealable sentence.

9 (49) "Statutory maximum sentence" means the maximum length of
10 time for which an offender may be confined as punishment for a crime
11 as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute
12 defining the crime, or other statute defining the maximum penalty for
13 a crime.

14 (50) "Stranger" means that the victim did not know the offender
15 twenty-four hours before the offense.

16 (51) "Total confinement" means confinement inside the physical
17 boundaries of a facility or institution operated or utilized under
18 contract by the state or any other unit of government for twenty-four
19 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

20 (52) "Transition training" means written and verbal instructions
21 and assistance provided by the department to the offender during the
22 two weeks prior to the offender's successful completion of the work
23 ethic camp program. The transition training shall include
24 instructions in the offender's requirements and obligations during
25 the offender's period of community custody.

26 (53) "Victim" means any person who has sustained emotional,
27 psychological, physical, or financial injury to person or property as
28 a direct result of the crime charged.

29 (54) "Violent offense" means:

30 (a) Any of the following felonies:

31 (i) Any felony defined under any law as a class A felony or an
32 attempt to commit a class A felony;

33 (ii) Criminal solicitation of or criminal conspiracy to commit a
34 class A felony;

35 (iii) Manslaughter in the first degree;

36 (iv) Manslaughter in the second degree;

37 (v) Indecent liberties if committed by forcible compulsion;

38 (vi) Kidnapping in the second degree;

39 (vii) Arson in the second degree;

40 (viii) Assault in the second degree;

1 (ix) Assault of a child in the second degree;
2 (x) Extortion in the first degree;
3 (xi) Robbery in the second degree;
4 (xii) Drive-by shooting;
5 (xiii) Vehicular assault, when caused by the operation or driving
6 of a vehicle by a person while under the influence of intoxicating
7 liquor or any drug or by the operation or driving of a vehicle in a
8 reckless manner; and

9 (xiv) Vehicular homicide, when proximately caused by the driving
10 of any vehicle by any person while under the influence of
11 intoxicating liquor or any drug as defined by RCW 46.61.502, or by
12 the operation of any vehicle in a reckless manner;

13 (b) Any conviction for a felony offense in effect at any time
14 prior to July 1, 1976, that is comparable to a felony classified as a
15 violent offense in (a) of this subsection; and

16 (c) Any federal or out-of-state conviction for an offense that
17 under the laws of this state would be a felony classified as a
18 violent offense under (a) or (b) of this subsection.

19 (55) "Work crew" means a program of partial confinement
20 consisting of civic improvement tasks for the benefit of the
21 community that complies with RCW 9.94A.725.

22 (56) "Work ethic camp" means an alternative incarceration program
23 as provided in RCW 9.94A.690 designed to reduce recidivism and lower
24 the cost of corrections by requiring offenders to complete a
25 comprehensive array of real-world job and vocational experiences,
26 character-building work ethics training, life management skills
27 development, substance abuse rehabilitation, counseling, literacy
28 training, and basic adult education.

29 (57) "Work release" means a program of partial confinement
30 available to offenders who are employed or engaged as a student in a
31 regular course of study at school.

32 **Sec. 28.** RCW 18.160.080 and 1997 c 58 s 834 are each amended to
33 read as follows:

34 (1) The state director of fire protection may refuse to issue or
35 renew or may suspend or revoke the privilege of a licensed fire
36 protection sprinkler system contractor or the certificate of a
37 certificate of competency holder to engage in the fire protection
38 sprinkler system business or in lieu thereof, establish penalties as
39 prescribed by Washington state law, for any of the following reasons:

1 (a) Gross incompetency or gross negligence in the preparation of
2 technical drawings, installation, repair, alteration, maintenance,
3 inspection, service, or addition to fire protection sprinkler
4 systems;

5 (b) Except as provided in section 3 of this act, conviction of a
6 felony;

7 (c) Fraudulent or dishonest practices while engaging in the fire
8 protection sprinkler system((s)) business;

9 (d) Use of false evidence or misrepresentation in an application
10 for a license or certificate of competency;

11 (e) Permitting his or her license to be used in connection with
12 the preparation of any technical drawings which have not been
13 prepared by him or her personally or under his or her immediate
14 supervision, or in violation of this chapter; or

15 (f) Knowingly violating any provisions of this chapter or the
16 regulations issued thereunder.

17 (2) The state director of fire protection shall revoke the
18 license of a licensed fire protection sprinkler system contractor or
19 the certificate of a certificate of competency holder who engages in
20 the fire protection sprinkler system business while the license or
21 certificate of competency is suspended.

22 (3) The state director of fire protection shall immediately
23 suspend any license or certificate issued under this chapter if the
24 holder has been certified pursuant to RCW 74.20A.320 by the
25 department of social and health services as a person who is not in
26 compliance with a support order or a residential or visitation order.
27 If the person has continued to meet all other requirements for
28 issuance or reinstatement during the suspension, issuance or
29 reissuance of the license or certificate shall be automatic upon the
30 director's receipt of a release issued by the department of social
31 and health services stating that the person is in compliance with the
32 order.

33 (4) Any licensee or certificate of competency holder who is
34 aggrieved by an order of the state director of fire protection
35 suspending or revoking a license may, within thirty days after notice
36 of such suspension or revocation, appeal under chapter 34.05 RCW.
37 This subsection does not apply to actions taken under subsection (3)
38 of this section.

1 **Sec. 29.** RCW 18.165.030 and 2012 c 118 s 1 are each amended to
2 read as follows:

3 An applicant must meet the following minimum requirements to
4 obtain a private investigator license:

5 (1) Be at least eighteen years of age;

6 (2) Be a citizen or resident alien of the United States;

7 (3) Except as provided in section 3 of this act, not have been
8 convicted of a crime in any jurisdiction, if the director determines
9 that the applicant's particular crime directly relates to his or her
10 capacity to perform the duties of a private investigator and the
11 director determines that the license should be withheld to protect
12 the citizens of Washington state. The director shall make her or his
13 determination to withhold a license because of previous convictions
14 notwithstanding the restoration of employment rights act, chapter
15 9.96A RCW;

16 (4) Be employed by or have an employment offer from a private
17 investigator agency or be licensed as a private investigator agency;

18 (5) Submit a set of fingerprints; however, if an applicant has
19 been issued a license as a private security guard under chapter
20 18.170 RCW within the last twelve months, the applicant is not
21 required to undergo a separate background check to become licensed
22 under this chapter;

23 (6) Pay the required nonrefundable fee for each application; and

24 (7) Submit a fully completed application that includes proper
25 identification on a form prescribed by the director for each company
26 of employment.

27 **Sec. 30.** RCW 18.170.030 and 2012 c 118 s 2 are each amended to
28 read as follows:

29 An applicant must meet the following minimum requirements to
30 obtain a private security guard license:

31 (1) Be at least eighteen years of age;

32 (2) Be a citizen of the United States or a resident alien;

33 (3) Except as provided in section 3 of this act, not have been
34 convicted of a crime in any jurisdiction, if the director determines
35 that the applicant's particular crime directly relates to his or her
36 capacity to perform the duties of a private security guard, and the
37 director determines that the license should be withheld to protect
38 the citizens of Washington state. The director shall make her or his
39 determination to withhold a license because of previous convictions

1 notwithstanding the restoration of employment rights act, chapter
2 9.96A RCW;

3 (4) Be employed by or have an employment offer from a licensed
4 private security company or be licensed as a private security
5 company;

6 (5) Satisfy the training requirements established by the
7 director;

8 (6) Submit a set of fingerprints; however, if an applicant has
9 been issued a license as a private investigator under chapter 18.165
10 RCW within the last twelve months, the applicant is not required to
11 undergo a separate background check to become licensed under this
12 chapter;

13 (7) Pay the required nonrefundable fee for each application; and

14 (8) Submit a fully completed application that includes proper
15 identification on a form prescribed by the director for each company
16 of employment.

17 **Sec. 31.** RCW 18.185.020 and 1993 c 260 s 3 are each amended to
18 read as follows:

19 An applicant must meet the following minimum requirements to
20 obtain a bail bond agent license:

21 (1) Be at least eighteen years of age;

22 (2) Be a citizen or resident alien of the United States;

23 (3) Except as provided in section 3 of this act, not have been
24 convicted of a crime in any jurisdiction in the preceding ten years,
25 if the director determines that the applicant's particular crime
26 directly relates to a capacity to perform the duties of a bail bond
27 agent and the director determines that the license should be withheld
28 to protect the citizens of Washington state. If the director shall
29 make a determination to withhold a license because of previous
30 convictions, the determination shall be consistent with the
31 restoration of employment rights act, chapter 9.96A RCW;

32 (4) Be employed by a bail bond agency or be licensed as a bail
33 bond agency; and

34 (5) Pay the required fee.

35 **Sec. 32.** RCW 18.185.250 and 2008 c 105 s 5 are each amended to
36 read as follows:

37 An applicant must meet the following requirements to obtain a
38 bail bond recovery agent license:

- 1 (1) Submit a fully completed application that includes proper
2 identification on a form prescribed by the director;
- 3 (2) Pass an examination determined by the director to measure his
4 or her knowledge and competence in the bail recovery business;
- 5 (3) Be at least twenty-one years old;
- 6 (4) Be a citizen or legal resident alien of the United States;
- 7 (5) Except as provided in section 3 of this act, not have been
8 convicted of a crime in any jurisdiction, if the director determines
9 that the applicant's particular crime directly relates to a capacity
10 to perform the duties of a bail bond recovery agent, and that the
11 license should be withheld to protect the citizens of Washington
12 state. The director shall make the director's determination to
13 withhold a license because of previous convictions notwithstanding
14 the restoration of employment rights act, chapter 9.96A RCW;
- 15 (6) Not have had certification as a peace officer revoked or
16 denied under chapter 43.101 RCW, unless certification has
17 subsequently been reinstated under RCW 43.101.115;
- 18 (7) Submit a receipt showing payment for a background check
19 through the Washington state patrol and the federal bureau of
20 investigation;
- 21 (8) Have a current firearms certificate issued by the commission
22 if carrying a firearm in the performance of his or her duties as a
23 bail bond recovery agent;
- 24 (9)(a) Have a current license or equivalent permit to carry a
25 concealed pistol;
- 26 (b) A resident alien must provide a copy of his or her alien
27 firearm license; and
- 28 (10)(a) Pay the required nonrefundable fee for each application
29 for a bail bond recovery agent license;
- 30 (b) A bail bond agent or qualified agent who wishes to perform
31 the duties of a bail bond recovery agent must first obtain a bail
32 bond recovery agent endorsement to his or her bail bond agent or
33 agency license in order to act as a bail bond recovery agent, and pay
34 the required nonrefundable fee for each application for a bail bond
35 recovery agent endorsement.

36 **Sec. 33.** RCW 18.130.160 and 2008 c 134 s 10 are each amended to
37 read as follows:

38 Upon a finding, after hearing, that a license holder has
39 committed unprofessional conduct or is unable to practice with

1 reasonable skill and safety due to a physical or mental condition,
2 the disciplining authority shall issue an order including sanctions
3 adopted in accordance with the schedule adopted under RCW 18.130.390
4 giving proper consideration to any prior findings of fact under RCW
5 18.130.110, any stipulations to informal disposition under RCW
6 18.130.172, and any action taken by other in-state or out-of-state
7 disciplining authorities. The order must provide for one or any
8 combination of the following, as directed by the schedule, except as
9 provided in section 3 of this act:

- 10 (1) Revocation of the license;
- 11 (2) Suspension of the license for a fixed or indefinite term;
- 12 (3) Restriction or limitation of the practice;
- 13 (4) Requiring the satisfactory completion of a specific program
14 of remedial education or treatment;
- 15 (5) The monitoring of the practice by a supervisor approved by
16 the disciplining authority;
- 17 (6) Censure or reprimand;
- 18 (7) Compliance with conditions of probation for a designated
19 period of time;
- 20 (8) Payment of a fine for each violation of this chapter, not to
21 exceed five thousand dollars per violation. Funds received shall be
22 placed in the health professions account;
- 23 (9) Denial of the license request;
- 24 (10) Corrective action;
- 25 (11) Refund of fees billed to and collected from the consumer;
- 26 (12) A surrender of the practitioner's license in lieu of other
27 sanctions, which must be reported to the federal data bank.

28 Any of the actions under this section may be totally or partly
29 stayed by the disciplining authority. Safeguarding the public's
30 health and safety is the paramount responsibility of every
31 disciplining authority. In determining what action is appropriate,
32 the disciplining authority must consider the schedule adopted under
33 RCW 18.130.390. Where the schedule allows flexibility in determining
34 the appropriate sanction, the disciplining authority must first
35 consider what sanctions are necessary to protect or compensate the
36 public. Only after such provisions have been made may the
37 disciplining authority consider and include in the order requirements
38 designed to rehabilitate the license holder. All costs associated
39 with compliance with orders issued under this section are the
40 obligation of the license holder. The disciplining authority may

1 order permanent revocation of a license if it finds that the license
2 holder can never be rehabilitated or can never regain the ability to
3 practice with reasonable skill and safety.

4 Surrender or permanent revocation of a license under this section
5 is not subject to a petition for reinstatement under RCW 18.130.150.

6 The disciplining authority may determine that a case presents
7 unique circumstances that the schedule adopted under RCW 18.130.390
8 does not adequately address. The disciplining authority may deviate
9 from the schedule adopted under RCW 18.130.390 when selecting
10 appropriate sanctions, but the disciplining authority must issue a
11 written explanation of the basis for not following the schedule.

12 The license holder may enter into a stipulated disposition of
13 charges that includes one or more of the sanctions of this section,
14 but only after a statement of charges has been issued and the license
15 holder has been afforded the opportunity for a hearing and has
16 elected on the record to forego such a hearing. The stipulation shall
17 either contain one or more specific findings of unprofessional
18 conduct or inability to practice, or a statement by the license
19 holder acknowledging that evidence is sufficient to justify one or
20 more specified findings of unprofessional conduct or inability to
21 practice. The stipulation entered into pursuant to this subsection
22 shall be considered formal disciplinary action for all purposes.

23 **Sec. 34.** RCW 43.20A.710 and 2014 c 88 s 2 are each amended to
24 read as follows:

25 (1) The secretary shall investigate the conviction records,
26 pending charges and disciplinary board final decisions of:

27 (a) Any current employee or applicant seeking or being considered
28 for any position with the department who will or may have
29 unsupervised access to children, vulnerable adults, or individuals
30 with mental illness or developmental disabilities. This includes, but
31 is not limited to, positions conducting comprehensive assessments,
32 financial eligibility determinations, licensing and certification
33 activities, investigations, surveys, or case management; or for state
34 positions otherwise required by federal law to meet employment
35 standards;

36 (b) Individual providers who are paid by the state and providers
37 who are paid by home care agencies to provide in-home services
38 involving unsupervised access to persons with physical, mental, or
39 developmental disabilities or mental illness, or to vulnerable adults

1 as defined in chapter 74.34 RCW, including but not limited to
2 services provided under chapter 74.39 or 74.39A RCW; and

3 (c) Individuals or businesses or organizations for the care,
4 supervision, case management, or treatment of children, persons with
5 developmental disabilities, or vulnerable adults, including but not
6 limited to services contracted for under chapter 18.20, 70.127,
7 70.128, 72.36, or 74.39A RCW or Title 71A RCW.

8 (2) The secretary shall require a fingerprint-based background
9 check through both the Washington state patrol and the federal bureau
10 of investigation as provided in RCW 43.43.837. Unless otherwise
11 authorized by law, the secretary shall use the information solely for
12 the purpose of determining the character, suitability, and competence
13 of the applicant.

14 (3) Except as provided in subsection (4) of this section, an
15 individual provider or home care agency provider who has resided in
16 the state less than three years before applying for employment
17 involving unsupervised access to a vulnerable adult as defined in
18 chapter 74.34 RCW must be fingerprinted for the purpose of
19 investigating conviction records through both the Washington state
20 patrol and the federal bureau of investigation. This subsection
21 applies only with respect to the provision of in-home services funded
22 by medicaid personal care under RCW 74.09.520, community options
23 program entry system waiver services under RCW 74.39A.030, or chore
24 services under RCW 74.39A.110. However, this subsection does not
25 supersede RCW 74.15.030(2)(b).

26 (4) Long-term care workers, as defined in RCW 74.39A.009, who are
27 hired after January 7, 2012, are subject to background checks under
28 RCW 74.39A.056, except that the department may require a background
29 check at any time under RCW 43.43.837. For the purposes of this
30 subsection, "background check" includes, but is not limited to, a
31 fingerprint check submitted for the purpose of investigating
32 conviction records through both the Washington state patrol and the
33 federal bureau of investigation.

34 (5) An individual provider or home care agency provider hired to
35 provide in-home care for and having unsupervised access to a
36 vulnerable adult as defined in chapter 74.34 RCW must have no
37 conviction for a disqualifying crime under RCW 43.43.830 and
38 43.43.842, except as provided in section 3 of this act. An individual
39 or home care agency provider must also have no conviction for a crime
40 relating to drugs as defined in RCW 43.43.830, except as provided in

1 section 3 of this act. This subsection applies only with respect to
2 the provision of in-home services funded by medicaid personal care
3 under RCW 74.09.520, community options program entry system waiver
4 services under RCW 74.39A.030, or chore services under RCW
5 74.39A.110.

6 (6) The secretary shall provide the results of the state
7 background check on long-term care workers, including individual
8 providers, to the persons hiring them or to their legal guardians, if
9 any, for their determination of the character, suitability, and
10 competence of the applicants. If the person elects to hire or retain
11 an individual provider after receiving notice from the department
12 that the applicant has a conviction for an offense that would
13 disqualify the applicant from having unsupervised access to persons
14 with physical, mental, or developmental disabilities or mental
15 illness, or to vulnerable adults as defined in chapter 74.34 RCW,
16 then the secretary shall deny payment for any subsequent services
17 rendered by the disqualified individual provider.

18 (7) Criminal justice agencies shall provide the secretary such
19 information as they may have and that the secretary may require for
20 such purpose.

21 (8) Any person whose criminal history would otherwise disqualify
22 the person under this section from a position which will or may have
23 unsupervised access to children, vulnerable adults, or persons with
24 mental illness or developmental disabilities shall not be
25 disqualified if the department of social and health services reviewed
26 the person's otherwise disqualifying criminal history through the
27 department of social and health services' background assessment
28 review team process conducted in 2002 and determined that such person
29 could remain in a position covered by this section, or if the
30 otherwise disqualifying conviction or disposition has been the
31 subject of a pardon, annulment, or other equivalent procedure.

32 NEW SECTION. **Sec. 35.** If any provision of this act or its
33 application to any person or circumstance is held invalid, the
34 remainder of the act or the application of the provision to other
35 persons or circumstances is not affected.

36 NEW SECTION. **Sec. 36.** If any part of this act is found to be in
37 conflict with federal requirements that are a prescribed condition to
38 the allocation of federal funds to the state, the conflicting part of

1 this act is inoperative solely to the extent of the conflict and with
2 respect to the agencies directly affected, and this finding does not
3 affect the operation of the remainder of this act in its application
4 to the agencies concerned. Rules adopted under this act must meet
5 federal requirements that are a necessary condition to the receipt of
6 federal funds by the state.

7 NEW SECTION. **Sec. 37.** Sections 2 and 3 of this act constitute a
8 new chapter in Title 9 RCW.

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