

ESHB 1553 - H AMD 792

By Representative Walkinshaw

ADOPTED 02/16/2016

1 Strike everything after the enacting clause and insert the
2 following:

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

7 Occupational licensing and employment laws regulate many
8 professions as well as unskilled and semiskilled
9 occupations. Examples of regulated occupations include alcohol
10 servers, barbers and cosmetologists, body piercers, commercial
11 fishers, contractors, drivers, embalmers, engineers, health care
12 workers, insurance adjusters, real estate professionals, tattoo
13 artists, and waste management workers. Individuals with criminal
14 histories may meet the competency requirements for these occupations
15 through training, experience, or education, but may be disqualified
16 from them based on their criminal history.

17 Certificates of restoration of opportunity help reduce some
18 barriers to employment for adults and juveniles by providing an
19 opportunity for individuals to become more employable and to more
20 successfully reintegrate into society after they have served their
21 sentence, demonstrated a period of law-abiding behavior consistent
22 with successful reentry, and have turned their lives around following
23 a conviction. Applicants for a certificate must also meet all other
24 statutory licensing requirements.

25 Certificates of restoration of opportunity offer potential public
26 and private employers or housing providers concrete and objective
27 information about an individual under consideration for an
28 opportunity. These certificates can facilitate the successful
29 societal reintegration of individuals with a criminal history whose
30 behavior demonstrates that they are taking responsibility for their
31 past criminal conduct and pursuing a positive law-abiding future. A
32 certificate of restoration of opportunity provides a process for

1 people previously sentenced by a Washington court who have
2 successfully changed their lives to seek a court document confirming
3 their changed circumstances.

4 A certificate of restoration of opportunity does not affect any
5 employer's or housing provider's discretion to individually assess
6 every applicant and to hire or rent to the applicants of their
7 choice. Employers will not have to forego hiring their chosen
8 applicants because they face statutory bars that prevent obtaining
9 the necessary occupational credentials.

10 NEW SECTION. **Sec. 2.** The definitions in this section apply
11 throughout this chapter unless the context clearly requires
12 otherwise.

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

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

19 (ii) Eighteen months have passed from release from total or
20 partial confinement from a Washington prison or jail or juvenile
21 facility for those sentenced by a Washington state court to
22 incarceration for a misdemeanor or gross misdemeanor or an equivalent
23 juvenile adjudication; or

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

28 (iv) Two years have passed from release from total or partial
29 confinement from a Washington prison or jail or juvenile facility for
30 those sentenced by a Washington state court for a class B or C felony
31 or an equivalent juvenile adjudication; or

32 (v) Five years have passed from sentencing for those sentenced by
33 a Washington state court to probation, or receiving a deferred
34 sentence or other noncustodial sentencing for a violent offense as
35 defined in RCW 9.94A.030 or an equivalent juvenile adjudication; or

36 (vi) Five years have passed from release from total or partial
37 confinement from a Washington prison or jail or juvenile facility for
38 those sentenced by a Washington state court for a violent offense as
39 defined in RCW 9.94A.030 or an equivalent juvenile adjudication;

1 (b) Is in compliance with or has completed all sentencing
2 requirements imposed by a court including:

3 (i) Has paid in full all court-ordered legal financial
4 obligations;

5 (ii) Is fully compliant with a payment plan for court-ordered
6 legal financial obligations; or

7 (iii) Is out of compliance with a payment plan for court-ordered
8 legal financial obligations but has established good cause with the
9 court for any noncompliance with the payment plan;

10 (c) Has never been convicted of a class A felony, an attempt to
11 commit a class A felony, criminal solicitation of or criminal
12 conspiracy to commit a class A felony, a sex offense as defined in
13 RCW 9.94A.030, a crime that includes sexual motivation pursuant to
14 RCW 9.94A.835, 13.40.135, or 9.94A.535(3)(f), extortion in the first
15 degree under RCW 9A.56.120, drive-by shooting under RCW 9A.36.045,
16 vehicular assault under RCW 46.61.522(1) (a) or (b), or luring under
17 RCW 9A.40.090, and is not required to register as a sex offender
18 pursuant to RCW 9A.44.130; and

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

22 (2) "Qualified court" means any Washington superior court in the
23 county where an applicant resides or that has sentenced or
24 adjudicated the applicant. If the sentencing or adjudicating court
25 was a court of limited jurisdiction then a qualified court is the
26 superior court in the county of the applicant's conviction or
27 adjudication.

28 NEW SECTION. **Sec. 3.** (1) Except as provided in this section, no
29 state, county, or municipal department, board, officer, or agency
30 authorized to assess the qualifications of any applicant for a
31 license, certificate of authority, qualification to engage in the
32 practice of a profession or business, or for admission to an
33 examination to qualify for such a license or certificate may
34 disqualify a qualified applicant, solely based on the applicant's
35 criminal history, if the qualified applicant has obtained a
36 certificate of restoration of opportunity and the applicant meets all
37 other statutory and regulatory requirements, except as required by
38 federal law or exempted under this subsection. Nothing in this
39 section is interpreted as restoring or creating a means to restore

1 any firearms rights or eligibility to obtain a firearm dealer license
2 pursuant to RCW 9.41.110 or requiring the removal of a protection
3 order.

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

7 (ii) This section does not apply to the licensing, certification,
8 or qualification of the following professionals: Accountants, RCW
9 18.04.295; assisted living facilities employees, RCW 18.20.125; bail
10 bond agents, RCW 18.185.020; escrow agents, RCW 18.44.241; long-term
11 care workers, RCW 18.88B.080; nursing home administrators, RCW
12 18.52.071; nursing, chapter 18.79 RCW; physicians and physician
13 assistants, chapters 18.71 and 18.71A RCW; private investigators, RCW
14 18.165.030; receivers, RCW 7.60.035; teachers, chapters 28A.405 and
15 28A.410 RCW; notaries public, chapter 42.44 RCW; private
16 investigators, chapter 18.165 RCW; real estate brokers and
17 salespersons, chapters 18.85 and 18.86 RCW; security guards, chapter
18 18.170 RCW; and vulnerable adult care providers, RCW 43.43.842.

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

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

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

34 (ii) Disqualify the applicant solely based on the applicant's
35 criminal history.

36 (c) If the practice of a profession or business involves
37 unsupervised contact with vulnerable adults, children, or individuals
38 with mental illness or developmental disabilities, or populations
39 otherwise defined by statute as vulnerable, the department of health
40 may, after review of relevant factors, including the nature and

1 seriousness of the offense, time that has passed since conviction,
2 changed circumstances since the offense occurred, and the nature of
3 the employment or license sought, at its discretion:

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

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

13 (d) The state of Washington, any of its counties, cities, towns,
14 municipal corporations, or quasi-municipal corporations, the
15 department of health, and its officers, employees, contractors, and
16 agents are immune from suit in law, equity, or any action under the
17 administrative procedure act based upon its exercise of discretion
18 under this section. This section does not create a protected class;
19 private right of action; any right, privilege, or duty; or change to
20 any right, privilege, or duty existing under law. This section does
21 not modify a licensing or certification applicant's right to a review
22 of an agency's decision under the administrative procedure act or
23 other applicable statute or agency rule. A certificate of restoration
24 of opportunity does not remove or alter citizenship or legal
25 residency requirements already in place for state agencies and
26 employers.

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

29 (a) A court must determine, in its discretion whether the
30 certificate:

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

32 (ii) Applies only to the convictions or adjudications in the
33 jurisdiction of the court.

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

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

39 (3) An employer or housing provider may, in its sole discretion,
40 determine whether to consider a certificate of restoration of

1 opportunity issued under this chapter in making employment or rental
2 decisions. An employer or housing provider is immune from suit in
3 law, equity, or under the administrative procedure act for damages
4 based upon its exercise of discretion under this section or the
5 refusal to exercise such discretion. In any action at law against an
6 employer or housing provider arising out of the employment of or
7 provision of housing to the recipient of a certificate of restoration
8 of opportunity, evidence of the crime for which a certificate of
9 restoration of opportunity has been issued may not be introduced as
10 evidence of negligence or intentionally tortious conduct on the part
11 of the employer or housing provider. This subsection does not create
12 a protected class, private right of action, any right, privilege, or
13 duty, or to change any right, privilege, or duty existing under law
14 related to employment or housing except as provided in RCW 7.60.035.

15 (4)(a) Department of social and health services: A certificate of
16 restoration of opportunity does not apply to the state abuse and
17 neglect registry. No finding of abuse, neglect, or misappropriation
18 of property may be removed from the registry based solely on a
19 certificate. The department must include such certificates as part of
20 its criminal history record reports, qualifying letters, or other
21 assessments pursuant to RCW 43.43.830 through 43.43.838. The
22 department shall adopt rules to implement this subsection.

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

27 (c) Court records:

28 (i) A certificate of restoration of opportunity has no effect on
29 any other court records, including records in the judicial
30 information system. The court records related to a certificate of
31 restoration of opportunity must be processed and recorded in the same
32 manner as any other record.

33 (ii) The qualified court where the applicant seeks the
34 certificate of restoration of opportunity must administer the court
35 records regarding the certificate in the same manner as it does
36 regarding all other proceedings.

37 (d) Effect in other judicial proceedings: A certificate of
38 restoration of opportunity may only be submitted to a court to
39 demonstrate that the individual met the specific requirements of this
40 section and not for any other procedure, including evidence of

1 character, reputation, or conduct. A certificate is not an equivalent
2 procedure under Rule of Evidence 609(c).

3 (e) Department of health: The department of health must include a
4 certificate of restoration of opportunity on its public web site if:

5 (i) Its web site includes an order, stipulation to informal
6 disposition, or notice of decision related to the conviction
7 identified in the certificate of restoration of opportunity; and

8 (ii) The credential holder has provided a certified copy of the
9 certificate of restoration of opportunity to the department of
10 health.

11 (5) In all cases, an applicant must provide notice to the
12 prosecutor in the county where he or she seeks a certificate of
13 restoration of opportunity of the pendency of such application. If
14 the applicant has been sentenced by any other jurisdiction in the
15 five years preceding the application for a certificate, the applicant
16 must also notify the prosecuting attorney in those jurisdictions. The
17 prosecutor in the county where an applicant applies for a certificate
18 shall provide the court with a report of the applicant's criminal
19 history.

20 (6) Application for a certificate of restoration of opportunity
21 must be filed as a civil action.

22 (7) A superior court in the county in which the applicant resides
23 may decline to consider the application for certificate of
24 restoration of opportunity. If the superior court in which the
25 applicant resides declines to consider the application, the court
26 must dismiss the application without prejudice and the applicant may
27 refile the application in another qualified court. The court must
28 state the reason for the dismissal on the order. If the court
29 determines that the applicant does not meet the required
30 qualifications, then the court must dismiss the application without
31 prejudice and state the reason(s) on the order. The superior court in
32 the county of the applicant's conviction or adjudication may not
33 decline to consider the application.

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

39 (9) The clerk of the court in which the certificate of
40 restoration of opportunity is granted shall transmit the certificate

1 of restoration of opportunity to the Washington state patrol
2 identification section, which holds criminal history information for
3 the person who is the subject of the conviction. The Washington state
4 patrol shall update its records to reflect the certificate of
5 restoration of opportunity.

6 (10)(a) The administrative office of the courts shall develop and
7 prepare instructions, forms, and an informational brochure designed
8 to assist applicants applying for a certificate of restoration of
9 opportunity.

10 (b) The instructions must include, at least, a sample of a
11 standard application and a form order for a certificate of
12 restoration of opportunity.

13 (c) The administrative office of the courts shall distribute a
14 master copy of the instructions, informational brochure, and sample
15 application and form order to all county clerks and a master copy of
16 the application and order to all superior courts by January 1, 2017.

17 (d) The administrative office of the courts shall determine the
18 significant non-English-speaking or limited English-speaking
19 populations in the state. The administrator shall then arrange for
20 translation of the instructions, which shall contain a sample of the
21 standard application and order, and the informational brochure into
22 languages spoken by those significant non-English-speaking
23 populations and shall distribute a master copy of the translated
24 instructions and informational brochures to the county clerks by
25 January 1, 2017.

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

29 **Sec. 4.** RCW 10.97.030 and 2012 c 125 s 1 are each amended to
30 read as follows:

31 For purposes of this chapter, the definitions of terms in this
32 section shall apply.

33 (1) "Criminal history record information" means information
34 contained in records collected by criminal justice agencies, other
35 than courts, on individuals, consisting of identifiable descriptions
36 and notations of arrests, detentions, indictments, informations, or
37 other formal criminal charges, and any disposition arising therefrom,
38 including acquittals by reason of insanity, dismissals based on lack
39 of competency, sentences, correctional supervision, and release.

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

7 (a) Posters, announcements, or lists for identifying or
8 apprehending fugitives or wanted persons;

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

12 (c) Court indices and records of public judicial proceedings,
13 court decisions, and opinions, and information disclosed during
14 public judicial proceedings;

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

17 (e) Records of any traffic offenses as maintained by the
18 department of licensing for the purpose of regulating the issuance,
19 suspension, revocation, or renewal of drivers' or other operators'
20 licenses and pursuant to RCW 46.52.130;

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

24 (g) Announcements of executive clemency;

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

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

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

36 (4) "Conviction or other disposition adverse to the subject"
37 means any disposition of charges other than: (a) A decision not to
38 prosecute; (b) a dismissal; or (c) acquittal; with the following
39 exceptions, which shall be considered dispositions adverse to the
40 subject: An acquittal due to a finding of not guilty by reason of

1 insanity and a dismissal by reason of incompetency, pursuant to
2 chapter 10.77 RCW; and a dismissal entered after a period of
3 probation, suspension, or deferral of sentence.

4 (5) "Criminal justice agency" means: (a) A court; or (b) a
5 government agency which performs the administration of criminal
6 justice pursuant to a statute or executive order and which allocates
7 a substantial part of its annual budget to the administration of
8 criminal justice.

9 (6) "The administration of criminal justice" means performance of
10 any of the following activities: Detection, apprehension, detention,
11 pretrial release, post-trial release, prosecution, adjudication,
12 correctional supervision, or rehabilitation of accused persons or
13 criminal offenders. The term also includes criminal identification
14 activities and the collection, storage, dissemination of criminal
15 history record information, and the compensation of victims of crime.

16 (7) "Disposition" means the formal conclusion of a criminal
17 proceeding at whatever stage it occurs in the criminal justice
18 system.

19 (8) "Dissemination" means disclosing criminal history record
20 information or disclosing the absence of criminal history record
21 information to any person or agency outside the agency possessing the
22 information, subject to the following exceptions:

23 (a) When criminal justice agencies jointly participate in the
24 maintenance of a single recordkeeping department as an alternative to
25 maintaining separate records, the furnishing of information by that
26 department to personnel of any participating agency is not a
27 dissemination;

28 (b) The furnishing of information by any criminal justice agency
29 to another for the purpose of processing a matter through the
30 criminal justice system, such as a police department providing
31 information to a prosecutor for use in preparing a charge, is not a
32 dissemination;

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

35 **Sec. 5.** RCW 14.20.090 and 2010 c 8 s 5012 are each amended to
36 read as follows:

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

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

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

6 (3) Willfully misrepresented any material fact in the application
7 for an aircraft dealer's license, aircraft dealer's certificate, or
8 registration certificate;

9 (4) Willfully withheld or caused to be withheld from a purchaser
10 of an aircraft any document referred to in subsection (1) of this
11 section if applicable, or an affidavit to the effect that there are
12 no liens, mortgages, or encumbrances of any type on the aircraft
13 other than noted thereon, if the document or affidavit has been
14 requested by the purchaser;

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

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

19 (7) Except as provided in section 3 of this act, been adjudged
20 guilty of a crime that directly relates to the business of an
21 aircraft dealer and the time elapsed since the conviction is less
22 than ten years, or had a judgment entered against the dealer within
23 the preceding five years in any civil action involving fraud,
24 misrepresentation, or conversion. For the purpose of this section,
25 the term "adjudged guilty" means, in addition to a final conviction
26 in either a state or municipal court, an unvacated forfeiture of bail
27 or collateral deposited to secure a defendant's appearance in court,
28 the payment of a fine, a plea of guilty, or a finding of guilt
29 regardless of whether the imposition of the sentence is deferred or
30 the penalty is suspended.

31 **Sec. 6.** RCW 9.96A.020 and 2009 c 396 s 7 are each amended to
32 read as follows:

33 (1) Subject to the exceptions in subsections (3) through (5) of
34 this section, and unless there is another provision of law to the
35 contrary, a person is not disqualified from employment by the state
36 of Washington or any of its counties, cities, towns, municipal
37 corporations, or quasi-municipal corporations, nor is a person
38 disqualified to practice, pursue or engage in any occupation, trade,
39 vocation, or business for which a license, permit, certificate or

1 registration is required to be issued by the state of Washington or
2 any of its counties, cities, towns, municipal corporations, or quasi-
3 municipal corporations solely because of a prior conviction of a
4 felony. However, this section does not preclude the fact of any prior
5 conviction of a crime from being considered.

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

21 (3) A person is disqualified for any certificate required or
22 authorized under chapters 28A.405 or 28A.410 RCW, because of a prior
23 guilty plea or the conviction of a felony crime specified under RCW
24 28A.400.322, even if the time elapsed since the guilty plea or
25 conviction is ten years or more.

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

33 (5) The provisions of this chapter do not apply to issuance of
34 licenses or credentials for professions regulated under chapter
35 18.130 RCW.

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

1 28A.400.322(2) apply to a person applying for a certificate or for
2 employment on or after July 26, 2009. Subsection (5) of this section
3 only applies to a person applying for a license or credential on or
4 after June 12, 2008.

5 **Sec. 7.** RCW 9.96A.050 and 1973 c 135 s 5 are each amended to
6 read as follows:

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

14 **Sec. 8.** RCW 18.11.160 and 2002 c 86 s 209 are each amended to
15 read as follows:

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

25 (2) In addition to the unprofessional conduct described in RCW
26 18.235.130, the director has the authority to take disciplinary
27 action for any of the following conduct, acts, or conditions:

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

31 (b) Nonpayment of an administrative fine prior to renewal of a
32 license; and

33 (c) Any other violations of this chapter.

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

1 reissuance of the license shall be automatic upon the department's
2 receipt of a release issued by the department of social and health
3 services stating that the licensee is in compliance with the order.

4 **Sec. 9.** RCW 18.39.410 and 2005 c 365 s 24 are each amended to
5 read as follows:

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

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

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

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

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

37 (5) Violation of a state law, municipal law, or county ordinance
38 or regulation affecting the handling, custody, care, transportation,

1 or disposition of human remains, except as provided in section 3 of
2 this act;

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

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

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

15 (9) Knowingly concealing information concerning a violation of
16 this title.

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

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

23 (1) The license was procured through fraud, misrepresentation, or
24 deceit;

25 (2) Except as provided in section 3 of this act, the licensee has
26 violated or has permitted any employee to violate any of the laws of
27 this state or the United States relating to drugs, controlled
28 substances, cosmetics, or nonprescription drugs, or has violated any
29 of the rules and regulations of the commission or has been convicted
30 of a felony.

31 **Sec. 11.** RCW 18.108.085 and 2012 c 137 s 14 are each amended to
32 read as follows:

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

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

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

1 (c) Establish forms and procedures necessary to administer this
2 chapter;

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

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

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

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

17 (3) Any license or certification issued under this chapter to a
18 person who is or has been convicted of violating RCW 9A.88.030,
19 9A.88.070, 9A.88.080, or 9A.88.090 or equivalent local ordinances
20 shall automatically be revoked by the secretary upon receipt of a
21 certified copy of the court documents reflecting such conviction,
22 except as provided in section 3 of this act. No further hearing or
23 procedure is required, and the secretary has no discretion with
24 regard to the revocation of the license or certification. The
25 revocation shall be effective even though such conviction may be
26 under appeal, or the time period for such appeal has not elapsed.
27 However, upon presentation of a final appellate decision overturning
28 such conviction, the license or certification shall be reinstated,
29 unless grounds for disciplinary action have been found under chapter
30 18.130 RCW. No license or certification may be granted under this
31 chapter to any person who has been convicted of violating RCW
32 9A.88.030, 9A.88.070, 9A.88.080, or 9A.88.090 or equivalent local
33 ordinances within the eight years immediately preceding the date of
34 application, except as provided in section 3 of this act. For
35 purposes of this subsection, "convicted" does not include a
36 conviction that has been the subject of a pardon, annulment, or other
37 equivalent procedure based on a finding of innocence, but does
38 include convictions for offenses for which the defendant received a
39 deferred or suspended sentence, unless the record has been expunged
40 according to law.

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

5 **Sec. 12.** RCW 18.130.055 and 2008 c 134 s 19 are each amended to
6 read as follows:

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

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

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

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

25 (d) Fails to prove that he or she is qualified in accordance with
26 the provisions of this chapter, the chapters identified in RCW
27 18.130.040(2), or the rules adopted by the disciplining authority; or

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

30 (i) The disciplining authority may require the applicant, at his
31 or her own expense, to submit to a mental, physical, or psychological
32 examination by one or more licensed health professionals designated
33 by the disciplining authority. The disciplining authority shall
34 provide written notice of its requirement for a mental or physical
35 examination that includes a statement of the specific conduct, event,
36 or circumstances justifying an examination and a statement of the
37 nature, purpose, scope, and content of the intended examination. If
38 the applicant fails to submit to the examination or provide the

1 results of the examination or any required waivers, the disciplining
2 authority may deny the application.

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

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

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

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

27 **Sec. 13.** RCW 18.130.050 and 2013 c 109 s 1 and 2013 c 86 s 2 are
28 each reenacted and amended to read as follows:

29 Except as provided in RCW 18.130.062, the disciplining authority
30 has the following authority:

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

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

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

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

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

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

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

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

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

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

34 (9) To conduct show cause hearings in accordance with RCW
35 18.130.062 or 18.130.135 to review an action taken by the
36 disciplining authority to suspend a license or restrict or limit a
37 license holder's practice pending proceedings by the disciplining
38 authority;

39 (10) To use a presiding officer as authorized in RCW
40 18.130.095(3) or the office of administrative hearings as authorized

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

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

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

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

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

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

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

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

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

39 (17) To designate individuals authorized to sign subpoenas and
40 statements of charges;

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

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

13 **Sec. 14.** RCW 18.235.110 and 2007 c 256 s 18 are each amended to
14 read as follows:

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

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

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

20 (c) Restriction or limitation of the practice;

21 (d) Satisfactory completion of a specific program of remedial
22 education or treatment;

23 (e) Monitoring of the practice in a manner directed by the
24 disciplinary authority;

25 (f) Censure or reprimand;

26 (g) Compliance with conditions of probation for a designated
27 period of time;

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

33 (i) Denial of an initial or renewal license application for an
34 interval of time; or

35 (j) Other corrective action.

36 (2) The disciplinary authority may require reimbursement to the
37 disciplinary authority for the investigative costs incurred in
38 investigating the matter that resulted in issuance of an order under

1 this section, but only if any of the sanctions in subsection (1)(a)
2 through (j) of this section is ordered.

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

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

23 **Sec. 15.** RCW 18.145.120 and 1995 c 27 s 11 are each amended to
24 read as follows:

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

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

- 35 (a) Revocation of the certification;
36 (b) Suspension of the certificate for a fixed or indefinite term;
37 (c) Restriction or limitation of the practice;
38 (d) Requiring the satisfactory completion of a specific program
39 or remedial education;

- 1 (e) The monitoring of the practice by a supervisor approved by
2 the director;
- 3 (f) Censure or reprimand;
- 4 (g) Compliance with conditions of probation for a designated
5 period of time;
- 6 (h) Denial of the certification request;
- 7 (i) Corrective action;
- 8 (j) Refund of fees billed to or collected from the consumer.

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

17 **Sec. 16.** RCW 9.94A.030 and 2015 c 287 s 1 and 2015 c 261 s 12
18 are each reenacted and amended to read as follows:

19 Unless the context clearly requires otherwise, the definitions in
20 this section apply throughout this chapter.

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

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

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

33 (4) "Community corrections officer" means an employee of the
34 department who is responsible for carrying out specific duties in
35 supervision of sentenced offenders and monitoring of sentence
36 conditions.

37 (5) "Community custody" means that portion of an offender's
38 sentence of confinement in lieu of earned release time or imposed as
39 part of a sentence under this chapter and served in the community

1 subject to controls placed on the offender's movement and activities
2 by the department.

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

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

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

10 (9) "Conviction" means an adjudication of guilt pursuant to Title
11 10 or 13 RCW and includes a verdict of guilty, a finding of guilty,
12 and acceptance of a plea of guilty.

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

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

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

29 (b) A conviction may be removed from a defendant's criminal
30 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,
31 9.95.240, or a similar out-of-state statute, or if the conviction has
32 been vacated pursuant to a governor's pardon.

33 (c) The determination of a defendant's criminal history is
34 distinct from the determination of an offender score. A prior
35 conviction that was not included in an offender score calculated
36 pursuant to a former version of the sentencing reform act remains
37 part of the defendant's criminal history.

38 (12) "Criminal street gang" means any ongoing organization,
39 association, or group of three or more persons, whether formal or
40 informal, having a common name or common identifying sign or symbol,

1 having as one of its primary activities the commission of criminal
2 acts, and whose members or associates individually or collectively
3 engage in or have engaged in a pattern of criminal street gang
4 activity. This definition does not apply to employees engaged in
5 concerted activities for their mutual aid and protection, or to the
6 activities of labor and bona fide nonprofit organizations or their
7 members or agents.

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

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

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

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

21 (c) To exact revenge or retribution for the gang or any member of
22 the gang;

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

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

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

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

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

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

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

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

27 (20) "Domestic violence" has the same meaning as defined in RCW
28 10.99.020 and 26.50.010.

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

33 (22) "Drug offense" means:

34 (a) Any felony violation of chapter 69.50 RCW except possession
35 of a controlled substance (RCW 69.50.4013) or forged prescription for
36 a controlled substance (RCW 69.50.403);

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

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

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

6 (24) "Electronic monitoring" means tracking the location of an
7 individual, whether pretrial or posttrial, through the use of
8 technology that is capable of determining or identifying the
9 monitored individual's presence or absence at a particular location
10 including, but not limited to:

11 (a) Radio frequency signaling technology, which detects if the
12 monitored individual is or is not at an approved location and
13 notifies the monitoring agency of the time that the monitored
14 individual either leaves the approved location or tampers with or
15 removes the monitoring device; or

16 (b) Active or passive global positioning system technology, which
17 detects the location of the monitored individual and notifies the
18 monitoring agency of the monitored individual's location.

19 (25) "Escape" means:

20 (a) Sexually violent predator escape (RCW 9A.76.115), escape in
21 the first degree (RCW 9A.76.110), escape in the second degree (RCW
22 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
23 willful failure to return from work release (RCW 72.65.070), or
24 willful failure to be available for supervision by the department
25 while in community custody (RCW 72.09.310); 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 an
28 escape under (a) of this subsection.

29 (26) "Felony traffic offense" means:

30 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
31 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-
32 run injury-accident (RCW 46.52.020(4)), felony driving while under
33 the influence of intoxicating liquor or any drug (RCW 46.61.502(6)),
34 or felony physical control of a vehicle while under the influence of
35 intoxicating liquor or any drug (RCW 46.61.504(6)); or

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

1 (27) "Fine" means a specific sum of money ordered by the
2 sentencing court to be paid by the offender to the court over a
3 specific period of time.

4 (28) "First-time offender" means any person who has no prior
5 convictions for a felony and is eligible for the first-time offender
6 waiver under RCW 9.94A.650.

7 (29) "Home detention" is a subset of electronic monitoring and
8 means a program of partial confinement available to offenders wherein
9 the offender is confined in a private residence twenty-four hours a
10 day, unless an absence from the residence is approved, authorized, or
11 otherwise permitted in the order by the court or other supervising
12 agency that ordered home detention, and the offender is subject to
13 electronic monitoring.

14 (30) "Homelessness" or "homeless" means a condition where an
15 individual lacks a fixed, regular, and adequate nighttime residence
16 and who has a primary nighttime residence that is:

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

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

21 (c) A private residence where the individual stays as a transient
22 invitee.

23 (31) "Legal financial obligation" means a sum of money that is
24 ordered by a superior court of the state of Washington for legal
25 financial obligations which may include restitution to the victim,
26 statutorily imposed crime victims' compensation fees as assessed
27 pursuant to RCW 7.68.035, court costs, county or interlocal drug
28 funds, court-appointed attorneys' fees, and costs of defense, fines,
29 and any other financial obligation that is assessed to the offender
30 as a result of a felony conviction. Upon conviction for vehicular
31 assault while under the influence of intoxicating liquor or any drug,
32 RCW 46.61.522(1)(b), or vehicular homicide while under the influence
33 of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal
34 financial obligations may also include payment to a public agency of
35 the expense of an emergency response to the incident resulting in the
36 conviction, subject to RCW 38.52.430.

37 (32) "Minor child" means a biological or adopted child of the
38 offender who is under age eighteen at the time of the offender's
39 current offense.

1 (33) "Most serious offense" means any of the following felonies
2 or a felony attempt to commit any of the following felonies:

3 (a) Any felony defined under any law as a class A felony or
4 criminal solicitation of or criminal conspiracy to commit a class A
5 felony;

6 (b) Assault in the second degree;

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

8 (d) Child molestation in the second degree;

9 (e) Controlled substance homicide;

10 (f) Extortion in the first degree;

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

12 (h) Indecent liberties;

13 (i) Kidnapping in the second degree;

14 (j) Leading organized crime;

15 (k) Manslaughter in the first degree;

16 (l) Manslaughter in the second degree;

17 (m) Promoting prostitution in the first degree;

18 (n) Rape in the third degree;

19 (o) Robbery in the second degree;

20 (p) Sexual exploitation;

21 (q) Vehicular assault, when caused by the operation or driving of
22 a vehicle by a person while under the influence of intoxicating
23 liquor or any drug or by the operation or driving of a vehicle in a
24 reckless manner;

25 (r) Vehicular homicide, when proximately caused by the driving of
26 any vehicle by any person while under the influence of intoxicating
27 liquor or any drug as defined by RCW 46.61.502, or by the operation
28 of any vehicle in a reckless manner;

29 (s) Any other class B felony offense with a finding of sexual
30 motivation;

31 (t) Any other felony with a deadly weapon verdict under RCW
32 9.94A.825;

33 (u) Any felony offense in effect at any time prior to December 2,
34 1993, that is comparable to a most serious offense under this
35 subsection, or any federal or out-of-state conviction for an offense
36 that under the laws of this state would be a felony classified as a
37 most serious offense under this subsection;

38 (v)(i) A prior conviction for indecent liberties under RCW
39 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex.
40 sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b),

1 and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW
2 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986,
3 until July 1, 1988;

4 (ii) A prior conviction for indecent liberties under RCW
5 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
6 if: (A) The crime was committed against a child under the age of
7 fourteen; or (B) the relationship between the victim and perpetrator
8 is included in the definition of indecent liberties under RCW
9 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27,
10 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25,
11 1993, through July 27, 1997;

12 (w) Any out-of-state conviction for a felony offense with a
13 finding of sexual motivation if the minimum sentence imposed was ten
14 years or more; provided that the out-of-state felony offense must be
15 comparable to a felony offense under this title and Title 9A RCW and
16 the out-of-state definition of sexual motivation must be comparable
17 to the definition of sexual motivation contained in this section.

18 (34) "Nonviolent offense" means an offense which is not a violent
19 offense.

20 (35) "Offender" means a person who has committed a felony
21 established by state law and is eighteen years of age or older or is
22 less than eighteen years of age but whose case is under superior
23 court jurisdiction under RCW 13.04.030 or has been transferred by the
24 appropriate juvenile court to a criminal court pursuant to RCW
25 13.40.110. In addition, for the purpose of community custody
26 requirements under this chapter, "offender" also means a misdemeanor
27 or gross misdemeanor probationer ordered by a superior court to
28 probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and
29 supervised by the department pursuant to RCW 9.94A.501 and
30 9.94A.5011. Throughout this chapter, the terms "offender" and
31 "defendant" are used interchangeably.

32 (36) "Partial confinement" means confinement for no more than one
33 year in a facility or institution operated or utilized under contract
34 by the state or any other unit of government, or, if home detention,
35 electronic monitoring, or work crew has been ordered by the court or
36 home detention has been ordered by the department as part of the
37 parenting program, in an approved residence, for a substantial
38 portion of each day with the balance of the day spent in the
39 community. Partial confinement includes work release, home detention,

1 work crew, electronic monitoring, and a combination of work crew,
2 electronic monitoring, and home detention.

3 (37) "Pattern of criminal street gang activity" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW
32 9A.56.070);

33 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW
34 9A.56.075);

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

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

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

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

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

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

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

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

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

5 (c) That the most recent committed offense listed in (a) of this
6 subsection occurred within three years of a prior offense listed in
7 (a) of this subsection; and

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

11 (38) "Persistent offender" is an offender who:

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

14 (ii) Has, before the commission of the offense under (a) of this
15 subsection, been convicted as an offender on at least two separate
16 occasions, whether in this state or elsewhere, of felonies that under
17 the laws of this state would be considered most serious offenses and
18 would be included in the offender score under RCW 9.94A.525; provided
19 that of the two or more previous convictions, at least one conviction
20 must have occurred before the commission of any of the other most
21 serious offenses for which the offender was previously convicted; or

22 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
23 of a child in the first degree, child molestation in the first
24 degree, rape in the second degree, rape of a child in the second
25 degree, or indecent liberties by forcible compulsion; (B) any of the
26 following offenses with a finding of sexual motivation: Murder in the
27 first degree, murder in the second degree, homicide by abuse,
28 kidnapping in the first degree, kidnapping in the second degree,
29 assault in the first degree, assault in the second degree, assault of
30 a child in the first degree, assault of a child in the second degree,
31 or burglary in the first degree; or (C) an attempt to commit any
32 crime listed in this subsection (38)(b)(i); and

33 (ii) Has, before the commission of the offense under (b)(i) of
34 this subsection, been convicted as an offender on at least one
35 occasion, whether in this state or elsewhere, of an offense listed in
36 (b)(i) of this subsection or any federal or out-of-state offense or
37 offense under prior Washington law that is comparable to the offenses
38 listed in (b)(i) of this subsection. A conviction for rape of a child
39 in the first degree constitutes a conviction under (b)(i) of this
40 subsection only when the offender was sixteen years of age or older

1 when the offender committed the offense. A conviction for rape of a
2 child in the second degree constitutes a conviction under (b)(i) of
3 this subsection only when the offender was eighteen years of age or
4 older when the offender committed the offense.

5 (39) "Predatory" means: (a) The perpetrator of the crime was a
6 stranger to the victim, as defined in this section; (b) the
7 perpetrator established or promoted a relationship with the victim
8 prior to the offense and the victimization of the victim was a
9 significant reason the perpetrator established or promoted the
10 relationship; or (c) the perpetrator was: (i) A teacher, counselor,
11 volunteer, or other person in authority in any public or private
12 school and the victim was a student of the school under his or her
13 authority or supervision. For purposes of this subsection, "school"
14 does not include home-based instruction as defined in RCW
15 28A.225.010; (ii) a coach, trainer, volunteer, or other person in
16 authority in any recreational activity and the victim was a
17 participant in the activity under his or her authority or
18 supervision; (iii) a pastor, elder, volunteer, or other person in
19 authority in any church or religious organization, and the victim was
20 a member or participant of the organization under his or her
21 authority; or (iv) a teacher, counselor, volunteer, or other person
22 in authority providing home-based instruction and the victim was a
23 student receiving home-based instruction while under his or her
24 authority or supervision. For purposes of this subsection: (A) "Home-
25 based instruction" has the same meaning as defined in RCW
26 28A.225.010; and (B) "teacher, counselor, volunteer, or other person
27 in authority" does not include the parent or legal guardian of the
28 victim.

29 (40) "Private school" means a school regulated under chapter
30 28A.195 or 28A.205 RCW.

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

32 (42) "Repetitive domestic violence offense" means any:

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

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

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

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

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

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

9 (43) "Restitution" means a specific sum of money ordered by the
10 sentencing court to be paid by the offender to the court over a
11 specified period of time as payment of damages. The sum may include
12 both public and private costs.

13 (44) "Risk assessment" means the application of the risk
14 instrument recommended to the department by the Washington state
15 institute for public policy as having the highest degree of
16 predictive accuracy for assessing an offender's risk of reoffense.

17 (45) "Serious traffic offense" means:

18 (a) Nonfelony driving while under the influence of intoxicating
19 liquor or any drug (RCW 46.61.502), nonfelony actual physical control
20 while under the influence of intoxicating liquor or any drug (RCW
21 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an
22 attended vehicle (RCW 46.52.020(5)); or

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

26 (46) "Serious violent offense" is a subcategory of violent
27 offense and means:

28 (a)(i) Murder in the first degree;

29 (ii) Homicide by abuse;

30 (iii) Murder in the second degree;

31 (iv) Manslaughter in the first degree;

32 (v) Assault in the first degree;

33 (vi) Kidnapping in the first degree;

34 (vii) Rape in the first degree;

35 (viii) Assault of a child in the first degree; or

36 (ix) An attempt, criminal solicitation, or criminal conspiracy to
37 commit one of these felonies; or

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

1 (47) "Sex offense" means:

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

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

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

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

10 (v) A felony violation of RCW 9A.44.132(1) (failure to register
11 as a sex offender) if the person has been convicted of violating RCW
12 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130
13 prior to June 10, 2010, on at least one prior occasion;

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

17 (c) A felony with a finding of sexual motivation under RCW
18 9.94A.835 or 13.40.135; or

19 (d) 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 sex
21 offense under (a) of this subsection.

22 (48) "Sexual motivation" means that one of the purposes for which
23 the defendant committed the crime was for the purpose of his or her
24 sexual gratification.

25 (49) "Standard sentence range" means the sentencing court's
26 discretionary range in imposing a nonappealable sentence.

27 (50) "Statutory maximum sentence" means the maximum length of
28 time for which an offender may be confined as punishment for a crime
29 as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute
30 defining the crime, or other statute defining the maximum penalty for
31 a crime.

32 (51) "Stranger" means that the victim did not know the offender
33 twenty-four hours before the offense.

34 (52) "Total confinement" means confinement inside the physical
35 boundaries of a facility or institution operated or utilized under
36 contract by the state or any other unit of government for twenty-four
37 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

38 (53) "Transition training" means written and verbal instructions
39 and assistance provided by the department to the offender during the
40 two weeks prior to the offender's successful completion of the work

1 ethic camp program. The transition training shall include
2 instructions in the offender's requirements and obligations during
3 the offender's period of community custody.

4 (54) "Victim" means any person who has sustained emotional,
5 psychological, physical, or financial injury to person or property as
6 a direct result of the crime charged.

7 (55) "Violent offense" means:

8 (a) Any of the following felonies:

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

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

13 (iii) Manslaughter in the first degree;

14 (iv) Manslaughter in the second degree;

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

16 (vi) Kidnapping in the second degree;

17 (vii) Arson in the second degree;

18 (viii) Assault in the second degree;

19 (ix) Assault of a child in the second degree;

20 (x) Extortion in the first degree;

21 (xi) Robbery in the second degree;

22 (xii) Drive-by shooting;

23 (xiii) Vehicular assault, when caused by the operation or driving
24 of a vehicle by a person while under the influence of intoxicating
25 liquor or any drug or by the operation or driving of a vehicle in a
26 reckless manner; and

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

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

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

37 (56) "Work crew" means a program of partial confinement
38 consisting of civic improvement tasks for the benefit of the
39 community that complies with RCW 9.94A.725.

1 (57) "Work ethic camp" means an alternative incarceration program
2 as provided in RCW 9.94A.690 designed to reduce recidivism and lower
3 the cost of corrections by requiring offenders to complete a
4 comprehensive array of real-world job and vocational experiences,
5 character-building work ethics training, life management skills
6 development, substance abuse rehabilitation, counseling, literacy
7 training, and basic adult education.

8 (58) "Work release" means a program of partial confinement
9 available to offenders who are employed or engaged as a student in a
10 regular course of study at school.

11 **Sec. 17.** RCW 18.160.080 and 1997 c 58 s 834 are each amended to
12 read as follows:

13 (1) The state director of fire protection may refuse to issue or
14 renew or may suspend or revoke the privilege of a licensed fire
15 protection sprinkler system contractor or the certificate of a
16 certificate of competency holder to engage in the fire protection
17 sprinkler system business or in lieu thereof, establish penalties as
18 prescribed by Washington state law, for any of the following reasons:

19 (a) Gross incompetency or gross negligence in the preparation of
20 technical drawings, installation, repair, alteration, maintenance,
21 inspection, service, or addition to fire protection sprinkler
22 systems;

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

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

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

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

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

35 (2) The state director of fire protection shall revoke the
36 license of a licensed fire protection sprinkler system contractor or
37 the certificate of a certificate of competency holder who engages in
38 the fire protection sprinkler system business while the license or
39 certificate of competency is suspended.

1 (3) The state director of fire protection shall immediately
2 suspend any license or certificate issued under this chapter if the
3 holder has been certified pursuant to RCW 74.20A.320 by the
4 department of social and health services as a person who is not in
5 compliance with a support order or a residential or visitation order.
6 If the person has continued to meet all other requirements for
7 issuance or reinstatement during the suspension, issuance or
8 reissuance of the license or certificate shall be automatic upon the
9 director's receipt of a release issued by the department of social
10 and health services stating that the person is in compliance with the
11 order.

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

18 **Sec. 18.** RCW 18.130.160 and 2008 c 134 s 10 are each amended to
19 read as follows:

20 Upon a finding, after hearing, that a license holder has
21 committed unprofessional conduct or is unable to practice with
22 reasonable skill and safety due to a physical or mental condition,
23 the disciplining authority shall issue an order including sanctions
24 adopted in accordance with the schedule adopted under RCW 18.130.390
25 giving proper consideration to any prior findings of fact under RCW
26 18.130.110, any stipulations to informal disposition under RCW
27 18.130.172, and any action taken by other in-state or out-of-state
28 disciplining authorities. The order must provide for one or any
29 combination of the following, as directed by the schedule, except as
30 provided in section 3 of this act:

- 31 (1) Revocation of the license;
- 32 (2) Suspension of the license for a fixed or indefinite term;
- 33 (3) Restriction or limitation of the practice;
- 34 (4) Requiring the satisfactory completion of a specific program
35 of remedial education or treatment;
- 36 (5) The monitoring of the practice by a supervisor approved by
37 the disciplining authority;
- 38 (6) Censure or reprimand;

1 (7) Compliance with conditions of probation for a designated
2 period of time;

3 (8) Payment of a fine for each violation of this chapter, not to
4 exceed five thousand dollars per violation. Funds received shall be
5 placed in the health professions account;

6 (9) Denial of the license request;

7 (10) Corrective action;

8 (11) Refund of fees billed to and collected from the consumer;

9 (12) A surrender of the practitioner's license in lieu of other
10 sanctions, which must be reported to the federal data bank.

11 Any of the actions under this section may be totally or partly
12 stayed by the disciplining authority. Safeguarding the public's
13 health and safety is the paramount responsibility of every
14 disciplining authority. In determining what action is appropriate,
15 the disciplining authority must consider the schedule adopted under
16 RCW 18.130.390. Where the schedule allows flexibility in determining
17 the appropriate sanction, the disciplining authority must first
18 consider what sanctions are necessary to protect or compensate the
19 public. Only after such provisions have been made may the
20 disciplining authority consider and include in the order requirements
21 designed to rehabilitate the license holder. All costs associated
22 with compliance with orders issued under this section are the
23 obligation of the license holder. The disciplining authority may
24 order permanent revocation of a license if it finds that the license
25 holder can never be rehabilitated or can never regain the ability to
26 practice with reasonable skill and safety.

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

29 The disciplining authority may determine that a case presents
30 unique circumstances that the schedule adopted under RCW 18.130.390
31 does not adequately address. The disciplining authority may deviate
32 from the schedule adopted under RCW 18.130.390 when selecting
33 appropriate sanctions, but the disciplining authority must issue a
34 written explanation of the basis for not following the schedule.

35 The license holder may enter into a stipulated disposition of
36 charges that includes one or more of the sanctions of this section,
37 but only after a statement of charges has been issued and the license
38 holder has been afforded the opportunity for a hearing and has
39 elected on the record to forego such a hearing. The stipulation shall
40 either contain one or more specific findings of unprofessional

1 conduct or inability to practice, or a statement by the license
2 holder acknowledging that evidence is sufficient to justify one or
3 more specified findings of unprofessional conduct or inability to
4 practice. The stipulation entered into pursuant to this subsection
5 shall be considered formal disciplinary action for all purposes.

6 NEW SECTION. **Sec. 19.** If any provision of this act or its
7 application to any person or circumstance is held invalid, the
8 remainder of the act or the application of the provision to other
9 persons or circumstances is not affected.

10 NEW SECTION. **Sec. 20.** If any part of this act is found to be in
11 conflict with federal requirements that are a prescribed condition to
12 the allocation of federal funds to the state, the conflicting part of
13 this act is inoperative solely to the extent of the conflict and with
14 respect to the agencies directly affected, and this finding does not
15 affect the operation of the remainder of this act in its application
16 to the agencies concerned. Rules adopted under this act must meet
17 federal requirements that are a necessary condition to the receipt of
18 federal funds by the state.

19 NEW SECTION. **Sec. 21.** Sections 2 and 3 of this act constitute a
20 new chapter in Title 9 RCW."

21 Correct the title.

EFFECT: Adds to the list of criminal convictions disqualifying a person from obtaining a certificate of restoration of opportunity, including the following: Any class A felony; an attempt to commit a class A felony; criminal solicitation of or criminal conspiracy to commit a class A felony; extortion in the first degree; drive-by shooting; vehicular assault when under the influence of intoxicating liquor or any drug, or by the operation of any vehicle in a reckless manner; and luring.

Extends the waiting period for qualifying for a certificate of restoration of opportunity for persons convicted of certain violent offenses from two to five years after sentencing and release from confinement.

Exempts the state and local governments from complying with the requirements of the bill for the licensing, certification, or qualification of the following professionals: Accountants; assisted living facilities employees; bail bond agents; escrow agents; long-term care workers; nursing home administrators; nursing; physicians and physician assistants; private investigators; receivers; security guards; teachers; notaries public; private investigators; real estate brokers and salespersons; security guards; and vulnerable adult care providers. Removes sections pertaining to these professions.

Restores the lifetime ban from public office when a person holding public office is convicted of a felony or malfeasance, regardless of whether or not the person obtains a certificate of restoration of opportunity.

Permits the disqualification of a person from employment at a county treasurer's office because of a prior guilty plea or conviction of a felony involving embezzlement or theft regardless of whether the person holds a certification of restoration of opportunity.

Expands civil immunity for the state with respect to certificates of restoration of opportunity by including actions brought under the administrative procedure act.

Provides counties, cities, towns, municipal corporations, and quasi-municipal corporations with immunity from any suit in law, equity, or any action under the administrative procedure act with respect to certificates of restoration of opportunity.

Provides employers and housing providers with immunity from suit in law, equity, or under the administrative procedure act based upon its discretion to consider a certificate of restoration of opportunity.

Prohibits evidence of a crime for which a certificate of restoration of opportunity has been issued from being introduced in an action alleging negligence or intentionally tortious conduct of the employer or housing provider with respect to the employment of or provision of housing to the recipient of a certificate of restoration of opportunity.

Specifies that the bill does not create a protected class, private right of action, any right, privilege, or duty, or to change any right, privilege, or duty existing under law.

Specifies that the bill does not modify a licensing or certification applicant's right to a review of any agency's decision under the administrative procedure act or other applicable statute or agency rule.

Specifies that a certificate of restoration of opportunity does not remove or alter citizenship or legal residency requirements already in place for state agencies and employers.

--- END ---