CERTIFICATION OF ENROLLMENT

**SUBSTITUTE SENATE BILL 5087**

Chapter 102, Laws of 2023

68th Legislature

2023 Regular Session

REMOVING LANGUAGE—DEFECTS AND OMISSIONS

EFFECTIVE DATE: July 23, 2023

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| Passed by the Senate February 1, 2023  Yeas 34 Nays 14  DENNY HECK  **President of the Senate**  Passed by the House April 7, 2023  Yeas 58 Nays 39  LAURIE JINKINS  **Speaker of the House of Representatives** | CERTIFICATE  I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5087** as passed by the Senate and the House of Representatives on the dates hereon set forth.  SARAH BANNISTER  Secretary |
| Approved April 20, 2023 9:38 AM | April 21, 2023 |
| JAY INSLEE  **Governor of the State of Washington** | **Secretary of State**  **State of Washington** |

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**SUBSTITUTE SENATE BILL 5087**

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Passed Legislature - 2023 Regular Session

**State of Washington 68th Legislature 2023 Regular Session**

**By** Senate Law & Justice (originally sponsored by Senators Pedersen, Mullet, Billig, Dhingra, Frame, Hasegawa, Hunt, Kauffman, Kuderer, Liias, Lovelett, Nobles, Saldaña, Stanford, and Wellman; by request of Attorney General)

AN ACT Relating to removing language from the Revised Code of Washington that has been identified by the justices of the supreme court or judges of the superior courts as defects and omissions in the laws pursuant to Article IV, section 25 of the Washington state Constitution; amending RCW 2.43.040, 2.48.190, 4.16.190, 48.140.010, 6.25.030, 10.105.900, 7.80.120, 9.94A.530, 9A.46.020, 10.05.030, 10.95.030, 10.95.035, 10.95.030, 41.56.0251, 43.135.034, 35A.66.020, and 9A.72.160; and repealing RCW 2.48.210, 4.56.250, 7.48.050, 7.48.052, 7.48.054, 7.48.056, 7.48.058, 7.48.060, 7.48.062, 7.48.064, 7.48.066, 7.48.068, 7.48.070, 7.48.072, 7.48.074, 7.48.076, 7.48.078, 7.48.080, 7.48.085, 7.48.090, 7.48.100, 7.70.150, 9.81.010, 9.81.020, 9.81.030, 9.81.040, 9.81.050, 9.81.060, 9.81.070, 9.81.080, 9.81.082, 9.81.083, 9.81.090, 9.81.110, 9.81.120, 9.91.180, 9.92.100, 10.52.100, 10.58.090, 10.95.040, 10.95.050, 10.95.060, 10.95.070, 10.95.080, 10.95.090, 10.95.100, 10.95.110, 10.95.120, 10.95.130, 10.95.140, 10.95.150, 10.95.160, 10.95.170, 10.95.180, 10.95.185, 10.95.190, 10.95.200, 10.95.901, 18.108.190, 35.13.165, 36.105.010, 36.105.020, 36.105.030, 36.105.040, 36.105.050, 36.105.060, 36.105.070, 36.105.080, 36.105.090, 36.105.100, 39.88.010, 39.88.020, 39.88.030, 39.88.040, 39.88.050, 39.88.060, 39.88.070, 39.88.080, 39.88.090, 39.88.100, 39.88.110, 39.88.120, 39.88.130, 39.88.900, 39.88.905, 39.88.910, 41.20.110, 47.44.030, 49.32.072, 49.32.073, 49.32.074, 66.24.480, 66.28.080, 73.04.050, 73.04.060, and 85.05.130.

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

**Sec.**  RCW 2.43.040 and 2008 c 291 s 3 are each amended to read as follows:

(1) Interpreters appointed according to this chapter are entitled to a reasonable fee for their services and shall be reimbursed for actual expenses which are reasonable as provided in this section.

(2) In all legal proceedings in which the non-English-speaking person is a party, or is subpoenaed or summoned by the appointing authority or is otherwise compelled by the appointing authority to appear, including criminal proceedings, grand jury proceedings, coroner's inquests, mental health commitment proceedings, and other legal proceedings initiated by agencies of government, the cost of providing the interpreter shall be borne by the governmental body initiating the legal proceedings.

(3) In other legal proceedings, the cost of providing the interpreter shall be borne by the non-English-speaking person unless such person is indigent according to adopted standards of the body. In such a case the cost shall be an administrative cost of the governmental body under the authority of which the legal proceeding is conducted.

(4) ((~~The cost of providing the interpreter is a taxable cost of any proceeding in which costs ordinarily are taxed.~~

~~(5)~~)) Subject to the availability of funds specifically appropriated therefor, the administrative office of the courts shall reimburse the appointing authority for up to one-half of the payment to the interpreter where an interpreter is appointed by a judicial officer in a proceeding before a court at public expense and:

(a) The interpreter appointed is an interpreter certified by the administrative office of the courts or is a qualified interpreter registered by the administrative office of the courts in a noncertified language, or where the necessary language is not certified or registered, the interpreter has been qualified by the judicial officer pursuant to this chapter;

(b) The court conducting the legal proceeding has an approved language assistance plan that complies with RCW 2.43.090; and

(c) The fee paid to the interpreter for services is in accordance with standards established by the administrative office of the courts.

**Sec.**  RCW 2.48.190 and 1987 c 202 s 107 are each amended to read as follows:

No person shall be permitted to practice as an attorney or counselor at law or to do work of a legal nature for compensation, or to represent himself or herself as an attorney or counselor at law or qualified to do work of a legal nature, unless he or she is ((~~a citizen of the United States and~~)) a bona fide resident of this state and has been admitted to practice law in this state: PROVIDED, That any person may appear and conduct his or her own case in any action or proceeding brought by or against him or her, or may appear in his or her own behalf in the small claims department of the district court: AND PROVIDED FURTHER, That an attorney of another state may appear as counselor in a court of this state without admission, upon satisfying the court that his or her state grants the same right to attorneys of this state.

NEW SECTION. **Sec.**  RCW 2.48.210 (Oath on admission) and 2013 c 23 s 1 & 1921 c 126 s 12 are each repealed.

**Sec.**  RCW 4.16.190 and 2020 c 312 s 702 are each amended to read as follows:

((~~(1)~~)) Unless otherwise provided in this section, if a person entitled to bring an action mentioned in this chapter, except for a penalty or forfeiture, or against a sheriff or other officer, for an escape, be at the time the cause of action accrued either under the age of eighteen years, or incompetent or disabled to such a degree that he or she cannot understand the nature of the proceedings, such incompetency or disability as determined according to chapter 11.130 RCW, or imprisoned on a criminal charge prior to sentencing, the time of such disability shall not be a part of the time limited for the commencement of action.

((~~(2) Subsection (1) of this section with respect to a person under the age of eighteen years does not apply to the time limited for the commencement of an action under RCW 4.16.350.~~))

NEW SECTION. **Sec.**  RCW 4.56.250 (Claims for noneconomic damages—Limitation) and 1986 c 305 s 301 are each repealed.

**Sec.**  RCW 48.140.010 and 2006 c 8 s 201 are each amended to read as follows:

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

(1) "Claim" means a demand for monetary damages for injury or death caused by medical malpractice, and a voluntary indemnity payment for injury or death caused by medical malpractice made in the absence of a demand for monetary damages.

(2) "Claimant" means a person, including a decedent's estate, who is seeking or has sought monetary damages for injury or death caused by medical malpractice.

(3) "Closed claim" means a claim that has been settled or otherwise disposed of by the insuring entity, self-insurer, facility, or provider. A claim may be closed with or without an indemnity payment to a claimant.

(4) "Commissioner" means the insurance commissioner.

(5) "Economic damages" ((~~has the same meaning as in RCW 4.56.250(1)(a)~~)) means objectively verifiable monetary losses, including medical expenses, loss of earnings, burial costs, loss of use of property, cost of replacement or repair, cost of obtaining substitute domestic services, loss of employment, and loss of business or employment opportunities.

(6) "Health care facility" or "facility" means a clinic, diagnostic center, hospital, laboratory, mental health center, nursing home, office, surgical facility, treatment facility, or similar place where a health care provider provides health care to patients, and includes entities described in RCW 7.70.020(3).

(7) "Health care provider" or "provider" has the same meaning as in RCW 7.70.020 (1) and (2).

(8) "Insuring entity" means:

(a) An insurer;

(b) A joint underwriting association;

(c) A risk retention group; or

(d) An unauthorized insurer that provides surplus lines coverage.

(9) "Medical malpractice" means an actual or alleged negligent act, error, or omission in providing or failing to provide health care services that is actionable under chapter 7.70 RCW.

(10) "Noneconomic damages" ((~~has the same meaning as in RCW 4.56.250(1)(b)~~)) means subjective, nonmonetary losses including, but not limited to, pain, suffering, inconvenience, mental anguish, disability or disfigurement incurred by the injured party, emotional distress, loss of society and companionship, loss of consortium, injury to reputation and humiliation, and destruction of the parent-child relationship.

(11) "Self-insurer" means any health care provider, facility, or other individual or entity that assumes operational or financial risk for claims of medical malpractice.

**Sec.**  RCW 6.25.030 and 2011 c 336 s 147 are each amended to read as follows:

The writ of attachment may be issued by the court in which the action is pending on one or more of the following grounds:

(1) That the defendant is a foreign corporation; or

(2) That the defendant is not a resident of this state; or

(3) That the defendant conceals himself or herself so that the ordinary process of law cannot be served upon him or her; or

(4) That the defendant has absconded or absented himself or herself from his or her usual place of abode in this state, so that the ordinary process of law cannot be served upon him or her; or

(5) That the defendant has removed or is about to remove any of his or her property from this state, with intent to delay or defraud his or her creditors; or

(6) That the defendant has assigned, secreted, or disposed of, or is about to assign, secrete, or dispose of, any of his or her property, with intent to delay or defraud his or her creditors; or

(7) That the defendant is about to convert his or her property, or a part thereof, into money, for the purpose of placing it beyond the reach of his or her creditors; or

(8) That the defendant has been guilty of a fraud in contracting the debt or incurring the obligation for which the action is brought; or

(9) That the damages for which the action is brought are for injuries arising from the commission of some felony, gross misdemeanor, or misdemeanor((~~; or~~

~~(10) That the object for which the action is brought is to recover on a contract, express or implied~~)).

NEW SECTION. **Sec.**  The following acts or parts of acts are each repealed:

(1) RCW 7.48.050 (Moral nuisances—Definitions) and 1990 c 152 s 1, 1979 c 1 s 1 (Initiative Measure No. 335, approved November 8, 1977), & 1913 c 127 s 1;

(2) RCW 7.48.052 (Moral nuisances) and 1990 c 152 s 2, 1988 c 141 s 1, & 1979 c 1 s 2 (Initiative Measure No. 335, approved November 8, 1977);

(3) RCW 7.48.054 (Moral nuisance—Personal property—Effects of notice) and 1990 c 152 s 3 & 1979 c 1 s 3 (Initiative Measure No. 335, approved November 8, 1977);

(4) RCW 7.48.056 (Abate moral nuisance—Enjoin owner) and 1979 c 1 s 4 (Initiative Measure No. 335, approved November 8, 1977);

(5) RCW 7.48.058 (Maintaining action to abate moral nuisance—Bond) and 2011 c 336 s 212 & 1979 c 1 s 5 (Initiative Measure No. 335, approved November 8, 1977);

(6) RCW 7.48.060 (Moral nuisance—Jurisdiction—Filing a complaint) and 1979 c 1 s 6 (Initiative Measure No. 335, approved November 8, 1977) & 1913 c 127 s 2;

(7) RCW 7.48.062 (Moral nuisance—Restraining order—Violations) and 1979 c 1 s 7 (Initiative Measure No. 335, approved November 8, 1977);

(8) RCW 7.48.064 (Moral nuisance—Hearing—Notice—Consolidation with trial) and 1979 c 1 s 8 (Initiative Measure No. 335, approved November 8, 1977);

(9) RCW 7.48.066 (Finding of moral nuisance—Orders) and 1979 c 1 s 9 (Initiative Measure No. 335, approved November 8, 1977);

(10) RCW 7.48.068 (Abatement of moral nuisance by owner—Effect on injunction) and 1979 c 1 s 10 (Initiative Measure No. 335, approved November 8, 1977);

(11) RCW 7.48.070 (Moral nuisance—Priority of action on calendar) and 1979 c 1 s 11 (Initiative Measure No. 335, approved November 8, 1977) & 1913 c 127 s 3;

(12) RCW 7.48.072 (Moral nuisance—Effects of admission or finding of guilt) and 1979 c 1 s 12 (Initiative Measure No. 335, approved November 8, 1977);

(13) RCW 7.48.074 (Moral nuisance—Evidence of reputation—Admissibility) and 1979 c 1 s 13 (Initiative Measure No. 335, approved November 8, 1977);

(14) RCW 7.48.076 (Moral nuisance—Trial—Costs—Dismissal—Judgment) and 2011 c 336 s 213 & 1979 c 1 s 14 (Initiative Measure No. 335, approved November 8, 1977);

(15) RCW 7.48.078 (Moral nuisance—Judgment—Penalties—Disposal of personal property) and 2011 c 336 s 214 & 1979 c 1 s 15 (Initiative Measure No. 335, approved November 8, 1977);

(16) RCW 7.48.080 (Moral nuisance—Violation of injunction—Contempt of court) and 1989 c 373 s 11, 1979 c 1 s 16 (Initiative Measure No. 335, approved November 8, 1977), & 1913 c 127 s 4;

(17) RCW 7.48.085 (Moral nuisance—Property owner may repossess) and 2011 c 336 s 215 & 1979 c 1 s 17 (Initiative Measure No. 335, approved November 8, 1977);

(18) RCW 7.48.090 (Moral nuisance—Contraband—Forfeitures) and 1979 c 1 s 18 (Initiative Measure No. 335, approved November 8, 1977), 1927 c 94 s 1, & 1913 c 127 s 5; and

(19) RCW 7.48.100 (Moral nuisance—Immunity of certain motion picture theater employees) and 2011 c 336 s 216, 1979 c 1 s 19 (Initiative Measure No. 335, approved November 8, 1977), 1927 c 94 s 2, & 1913 c 127 s 6.

**Sec.**  RCW 10.105.900 and 2003 c 39 s 6 are each amended to read as follows:

This chapter does not apply to property subject to forfeiture under chapter 66.32 RCW, RCW 69.50.505, 9.41.098, 9.46.231, 9A.82.100, 9A.83.030, ((~~7.48.090,~~)) or 77.15.070.

NEW SECTION. **Sec.**  RCW 7.70.150 (Actions alleging violation of accepted standard of care—Certificate of merit required) and 2006 c 8 s 304 are each repealed.

NEW SECTION. **Sec.**  The following acts or parts of acts are each repealed:

(1) RCW 9.81.010 (Definitions) and 1953 c 142 s 1 & 1951 c 254 s 1;

(2) RCW 9.81.020 (Subversive activities made felony—Penalty) and 2003 c 53 s 44 & 1951 c 254 s 2;

(3) RCW 9.81.030 (Membership in subversive organization is felony—Penalty) and 2003 c 53 s 45 & 1951 c 254 s 3;

(4) RCW 9.81.040 (Disqualification from voting or holding public office) and 1951 c 254 s 4;

(5) RCW 9.81.050 (Dissolution of subversive organizations—Disposition of property) and 1951 c 254 s 5;

(6) RCW 9.81.060 (Public employment—Subversive person ineligible) and 1951 c 254 s 11;

(7) RCW 9.81.070 (Public employment—Determining eligibility—Inquiries—Oath) and 1955 c 377 s 1 & 1951 c 254 s 12;

(8) RCW 9.81.080 (Public employment—Inquiries may be dispensed with, when) and 1955 c 377 s 2 & 1951 c 254 s 13;

(9) RCW 9.81.082 (Membership in subversive organization described) and 1955 c 377 s 3;

(10) RCW 9.81.083 (Communist party declared a subversive organization) and 1955 c 377 s 4;

(11) RCW 9.81.090 (Public employees—Discharge of subversive persons—Procedure—Hearing—Appeal) and 2011 c 336 s 328, 1971 c 81 s 44, & 1951 c 254 s 15;

(12) RCW 9.81.110 (Misstatements are punishable as perjury—Penalty) and 1951 c 254 s 17; and

(13) RCW 9.81.120 (Constitutional rights—Censorship or infringement) and 1951 c 254 s 19.

NEW SECTION. **Sec.**  RCW 9.91.180 (Violent video or computer games) and 2003 c 365 s 2 are each repealed.

**Sec.**  RCW 7.80.120 and 2022 c 105 s 1 are each amended to read as follows:

(1) A person found to have committed a civil infraction shall be assessed a monetary penalty.

(a) The maximum penalty and the default amount for a class 1 civil infraction shall be $250, not including statutory assessments, except for an infraction of state law involving (i) potentially dangerous litter as specified in RCW 70A.200.060(4) ((~~or violent video or computer games under RCW 9.91.180~~)), in which case the maximum penalty and default amount is $500; or (ii) a person's refusal to submit to a test or tests pursuant to RCW 79A.60.040 and 79A.60.700, in which case the maximum penalty and default amount is $1,000; or (iii) the misrepresentation of service animals under RCW 49.60.214, in which case the maximum penalty and default amount is $500; or (iv) untraceable firearms pursuant to RCW 9.41.326 or unfinished frames or receivers pursuant to RCW 9.41.327, in which case the maximum penalty and default amount is $500;

(b) The maximum penalty and the default amount for a class 2 civil infraction shall be $125, not including statutory assessments;

(c) The maximum penalty and the default amount for a class 3 civil infraction shall be $50, not including statutory assessments; and

(d) The maximum penalty and the default amount for a class 4 civil infraction shall be $25, not including statutory assessments.

(2) The supreme court shall prescribe by rule the conditions under which local courts may exercise discretion in assessing fines for civil infractions.

(3) Whenever a monetary penalty is imposed by a court under this chapter it is immediately payable. If the person is unable to pay at that time the court may grant an extension of the period in which the penalty may be paid. If the penalty is not paid on or before the time established for payment, the court may proceed to collect the penalty in the same manner as other civil judgments and may notify the prosecuting authority of the failure to pay.

(4) The court may also order a person found to have committed a civil infraction to make restitution.

NEW SECTION. **Sec.**  RCW 9.92.100 (Prevention of procreation) and 1909 c 249 s 35 are each repealed.

**Sec.**  RCW 9.94A.530 and 2008 c 231 s 4 are each amended to read as follows:

(1) The intersection of the column defined by the offender score and the row defined by the offense seriousness score determines the standard sentence range (see RCW 9.94A.510, (Table 1) and RCW 9.94A.517, (Table 3)). The additional time for deadly weapon findings or for other adjustments as specified in RCW 9.94A.533 shall be added to the entire standard sentence range. The court may impose any sentence within the range that it deems appropriate. All standard sentence ranges are expressed in terms of total confinement.

(2) In determining any sentence other than a sentence above the standard range, the trial court may rely on no more information than is admitted by the plea agreement, or admitted, acknowledged, or proved in a trial or at the time of sentencing, or proven pursuant to RCW 9.94A.537. ((~~Acknowledgment includes not objecting to information stated in the presentence reports and not objecting to criminal history presented at the time of sentencing.~~)) Where the defendant disputes material facts, the court must either not consider the fact or grant an evidentiary hearing on the point. The facts shall be deemed proved at the hearing by a preponderance of the evidence, except as otherwise specified in RCW 9.94A.537. On remand for resentencing following appeal or collateral attack, the parties shall have the opportunity to present and the court to consider all relevant evidence regarding criminal history, including criminal history not previously presented.

(3) In determining any sentence above the standard sentence range, the court shall follow the procedures set forth in RCW 9.94A.537. Facts that establish the elements of a more serious crime or additional crimes may not be used to go outside the standard sentence range except upon stipulation or when specifically provided for in RCW 9.94A.535(3)(d), (e), (g), and (h).

**Sec.**  RCW 9A.46.020 and 2011 c 64 s 1 are each amended to read as follows:

(1) A person is guilty of harassment if:

(a) Without lawful authority, the person knowingly threatens:

(i) To cause bodily injury immediately or in the future to the person threatened or to any other person; or

(ii) To cause physical damage to the property of a person other than the actor; or

(iii) To subject the person threatened or any other person to physical confinement or restraint; or

(iv) Maliciously to do any other act which is intended to substantially harm the person threatened or another with respect to his or her physical ((~~or mental~~)) health or safety; and

(b) The person by words or conduct places the person threatened in reasonable fear that the threat will be carried out. "Words or conduct" includes, in addition to any other form of communication or conduct, the sending of an electronic communication.

(2)(a) Except as provided in (b) of this subsection, a person who harasses another is guilty of a gross misdemeanor.

(b) A person who harasses another is guilty of a class C felony if any of the following apply: (i) The person has previously been convicted in this or any other state of any crime of harassment, as defined in RCW 9A.46.060, of the same victim or members of the victim's family or household or any person specifically named in a no-contact or no-harassment order; (ii) the person harasses another person under subsection (1)(a)(i) of this section by threatening to kill the person threatened or any other person; (iii) the person harasses a criminal justice participant who is performing his or her official duties at the time the threat is made; or (iv) the person harasses a criminal justice participant because of an action taken or decision made by the criminal justice participant during the performance of his or her official duties. For the purposes of (b)(iii) and (iv) of this subsection, the fear from the threat must be a fear that a reasonable criminal justice participant would have under all the circumstances. Threatening words do not constitute harassment if it is apparent to the criminal justice participant that the person does not have the present and future ability to carry out the threat.

(3) Any criminal justice participant who is a target for threats or harassment prohibited under subsection (2)(b)(iii) or (iv) of this section, and any family members residing with him or her, shall be eligible for the address confidentiality program created under RCW 40.24.030.

(4) For purposes of this section, a criminal justice participant includes any (a) federal, state, or local law enforcement agency employee; (b) federal, state, or local prosecuting attorney or deputy prosecuting attorney; (c) staff member of any adult corrections institution or local adult detention facility; (d) staff member of any juvenile corrections institution or local juvenile detention facility; (e) community corrections officer, probation, or parole officer; (f) member of the indeterminate sentence review board; (g) advocate from a crime victim/witness program; or (h) defense attorney.

(5) The penalties provided in this section for harassment do not preclude the victim from seeking any other remedy otherwise available under law.

**Sec.**  RCW 10.05.030 and 2021 c 215 s 116 are each amended to read as follows:

The arraigning judge upon consideration of the petition ((~~and with the concurrence of the prosecuting attorney~~)) may continue the arraignment and refer such person for a diagnostic investigation and evaluation to:

(1) An approved substance use disorder treatment program as designated in chapter 71.24 RCW if the petition alleges a substance use disorder;

(2) An approved mental health center if the petition alleges a mental problem;

(3) The department of social and health services if the petition is brought under RCW 10.05.020(2); or

(4) An approved state-certified domestic violence treatment provider pursuant to RCW 43.20A.735 if the petition alleges a domestic violence behavior problem.

NEW SECTION. **Sec.**  RCW 10.52.100 (Identity of child victims of sexual assault not to be disclosed) and 1992 c 188 s 9 are each repealed.

NEW SECTION. **Sec.**  RCW 10.58.090 (Sex offenses—Admissibility) and 2008 c 90 s 2 are each repealed.

**Sec.**  RCW 10.95.030 and 2015 c 134 s 5 are each amended to read as follows:

(1) Except as provided in subsection((~~s~~)) (2) ((~~and (3)~~)) of this section, any person convicted of the crime of aggravated first degree murder shall be sentenced to life imprisonment without possibility of release or parole. A person sentenced to life imprisonment under this section shall not have that sentence suspended, deferred, or commuted by any judicial officer and the indeterminate sentence review board or its successor may not parole such prisoner nor reduce the period of confinement in any manner whatsoever including but not limited to any sort of good‑time calculation. The department of social and health services or its successor or any executive official may not permit such prisoner to participate in any sort of release or furlough program.

(2) ((~~If, pursuant to a special sentencing proceeding held under RCW 10.95.050, the trier of fact finds that there are not sufficient mitigating circumstances to merit leniency, the sentence shall be death. In no case, however, shall a person be sentenced to death if the person had an intellectual disability at the time the crime was committed, under the definition of intellectual disability set forth in (a) of this subsection. A diagnosis of intellectual disability shall be documented by a licensed psychiatrist or licensed psychologist designated by the court, who is an expert in the diagnosis and evaluation of intellectual disabilities. The defense must establish an intellectual disability by a preponderance of the evidence and the court must make a finding as to the existence of an intellectual disability.~~

~~(a) "Intellectual disability" means the individual has: (i) Significantly subaverage general intellectual functioning; (ii) existing concurrently with deficits in adaptive behavior; and (iii) both significantly subaverage general intellectual functioning and deficits in adaptive behavior were manifested during the developmental period.~~

~~(b) "General intellectual functioning" means the results obtained by assessment with one or more of the individually administered general intelligence tests developed for the purpose of assessing intellectual functioning.~~

~~(c) "Significantly subaverage general intellectual functioning" means intelligence quotient seventy or below.~~

~~(d) "Adaptive behavior" means the effectiveness or degree with which individuals meet the standards of personal independence and social responsibility expected for his or her age.~~

~~(e) "Developmental period" means the period of time between conception and the eighteenth birthday.~~

~~(3)~~))(a)(i) Any person convicted of the crime of aggravated first degree murder for an offense committed prior to the person's sixteenth birthday shall be sentenced to a maximum term of life imprisonment and a minimum term of total confinement of twenty-five years.

(ii) Any person convicted of the crime of aggravated first degree murder for an offense committed when the person is at least sixteen years old but less than eighteen years old shall be sentenced to a maximum term of life imprisonment and a minimum term of total confinement of no less than twenty-five years. A minimum term of life may be imposed, in which case the person will be ineligible for parole or early release.

(b) In setting a minimum term, the court must take into account mitigating factors that account for the diminished culpability of youth as provided in *Miller v. Alabama*, 132 S.Ct. 2455 (2012) including, but not limited to, the age of the individual, the youth's childhood and life experience, the degree of responsibility the youth was capable of exercising, and the youth's chances of becoming rehabilitated.

(c) A person sentenced under this subsection shall serve the sentence in a facility or institution operated, or utilized under contract, by the state. During the minimum term of total confinement, the person shall not be eligible for community custody, earned release time, furlough, home detention, partial confinement, work crew, work release, or any other form of early release authorized under RCW 9.94A.728, or any other form of authorized leave or absence from the correctional facility while not in the direct custody of a corrections officer. The provisions of this subsection shall not apply: (i) In the case of an offender in need of emergency medical treatment; or (ii) for an extraordinary medical placement when authorized under RCW 9.94A.728((~~(3)~~)) (1)(c).

(d) Any person sentenced pursuant to this subsection shall be subject to community custody under the supervision of the department of corrections and the authority of the indeterminate sentence review board. As part of any sentence under this subsection, the court shall require the person to comply with any conditions imposed by the board.

(e) No later than five years prior to the expiration of the person's minimum term, the department of corrections shall conduct an assessment of the offender and identify programming and services that would be appropriate to prepare the offender for return to the community. To the extent possible, the department shall make programming available as identified by the assessment.

(f) No later than one hundred eighty days prior to the expiration of the person's minimum term, the department of corrections shall conduct, and the offender shall participate in, an examination of the person, incorporating methodologies that are recognized by experts in the prediction of dangerousness, and including a prediction of the probability that the person will engage in future criminal behavior if released on conditions to be set by the board. The board may consider a person's failure to participate in an evaluation under this subsection in determining whether to release the person. The board shall order the person released, under such affirmative and other conditions as the board determines appropriate, unless the board determines by a preponderance of the evidence that, despite such conditions, it is more likely than not that the person will commit new criminal law violations if released. If the board does not order the person released, the board shall set a new minimum term not to exceed five additional years. The board shall give public safety considerations the highest priority when making all discretionary decisions regarding the ability for release and conditions of release.

(g) In a hearing conducted under (f) of this subsection, the board shall provide opportunities for victims and survivors of victims of any crimes for which the offender has been convicted to present statements as set forth in RCW 7.69.032. The procedures for victim and survivor of victim input shall be provided by rule. To facilitate victim and survivor of victim involvement, county prosecutor's offices shall ensure that any victim impact statements and known contact information for victims of record and survivors of victims are forwarded as part of the judgment and sentence.

(h) An offender released by the board is subject to the supervision of the department of corrections for a period of time to be determined by the board. The department shall monitor the offender's compliance with conditions of community custody imposed by the court or board and promptly report any violations to the board. Any violation of conditions of community custody established or modified by the board are subject to the provisions of RCW 9.95.425 through 9.95.440.

(i) An offender released or discharged under this section may be returned to the institution at the discretion of the board if the offender is found to have violated a condition of community custody. The offender is entitled to a hearing pursuant to RCW 9.95.435. The board shall set a new minimum term of incarceration not to exceed five years.

NEW SECTION. **Sec.**  The following acts or parts of acts are each repealed:

(1) RCW 10.95.040 (Special sentencing proceeding—Notice—Filing—Service) and 1981 c 138 s 4;

(2) RCW 10.95.050 (Special sentencing proceeding—When held—Jury to decide matters presented—Waiver—Reconvening same jury—Impanelling new jury—Peremptory challenges) and 1981 c 138 s 5;

(3) RCW 10.95.060 (Special sentencing proceeding—Jury instructions—Opening statements—Evidence—Arguments—Question for jury) and 1981 c 138 s 6;

(4) RCW 10.95.070 (Special sentencing proceeding—Factors which jury may consider in deciding whether leniency merited) and 2010 c 94 s 4, 1993 c 479 s 2, & 1981 c 138 s 7;

(5) RCW 10.95.080 (When sentence to death or sentence to life imprisonment shall be imposed) and 1981 c 138 s 8;

(6) RCW 10.95.090 (Sentence if death sentence commuted, held invalid, or if death sentence established by chapter held invalid) and 1981 c 138 s 9;

(7) RCW 10.95.100 (Mandatory review of death sentence by supreme court—Notice—Transmittal—Contents of notice—Jurisdiction) and 1981 c 138 s 10;

(8) RCW 10.95.110 (Verbatim report of trial proceedings—Preparation—Transmittal to supreme court—Clerk's papers—Receipt) and 1981 c 138 s 11;

(9) RCW 10.95.120 (Information report—Form—Contents—Submission to supreme court, defendant, prosecuting attorney) and 1981 c 138 s 12;

(10) RCW 10.95.130 (Questions posed for determination by supreme court in death sentence review—Review in addition to appeal—Consolidation of review and appeal) and 2010 c 94 s 5, 1993 c 479 s 3, & 1981 c 138 s 13;

(11) RCW 10.95.140 (Invalidation of sentence, remand for resentencing—Affirmation of sentence, remand for execution) and 1993 c 479 s 4 & 1981 c 138 s 14;

(12) RCW 10.95.150 (Time limit for appellate review of death sentence and filing opinion) and 1988 c 202 s 17 & 1981 c 138 s 15;

(13) RCW 10.95.160 (Death warrant—Issuance—Form—Time for execution of judgment and sentence) and 1990 c 263 s 1 & 1981 c 138 s 16;

(14) RCW 10.95.170 (Imprisonment of defendant) and 1983 c 255 s 1 & 1981 c 138 s 17;

(15) RCW 10.95.180 (Death penalty—How executed) and 1996 c 251 s 1, 1986 c 194 s 1, & 1981 c 138 s 18;

(16) RCW 10.95.185 (Witnesses) and 1999 c 332 s 1 & 1993 c 463 s 2;

(17) RCW 10.95.190 (Death warrant—Record—Return to trial court) and 1981 c 138 s 19;

(18) RCW 10.95.200 (Proceedings for failure to execute on day named) and 1990 c 263 s 2, 1987 c 286 s 1, & 1981 c 138 s 20; and

(19) RCW 10.95.901 (Construction—Chapter applicable to state registered domestic partnerships—2009 c 521) and 2009 c 521 s 28.

**Sec.**  RCW 10.95.035 and 2015 c 134 s 7 are each amended to read as follows:

(1) A person, who was sentenced prior to June 1, 2014, under this chapter or any prior law, to a term of life without the possibility of parole for an offense committed prior to their eighteenth birthday, shall be returned to the sentencing court or the sentencing court's successor for sentencing consistent with RCW 10.95.030. Release and supervision of a person who receives a minimum term of less than life will be governed by RCW 10.95.030.

(2) The court shall provide an opportunity for victims and survivors of victims of any crimes for which the offender has been convicted to present a statement personally or by representation.

(3) ((~~The court's order setting a minimum term is subject to review to the same extent as a minimum term decision by the parole board before July 1, 1986.~~

~~(4)~~)) A resentencing under this section shall not reopen the defendant's conviction to challenges that would otherwise be barred by RCW 10.73.090, 10.73.100, 10.73.140, or other procedural barriers.

**Sec.**  RCW 10.95.030 and 2015 c 134 s 5 are each amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, any person convicted of the crime of aggravated first degree murder shall be sentenced to life imprisonment without possibility of release or parole. A person sentenced to life imprisonment under this section shall not have that sentence suspended, deferred, or commuted by any judicial officer and the indeterminate sentence review board or its successor may not parole such prisoner nor reduce the period of confinement in any manner whatsoever including but not limited to any sort of good‑time calculation. The department of social and health services or its successor or any executive official may not permit such prisoner to participate in any sort of release or furlough program.

(2) If, pursuant to a special sentencing proceeding held under RCW 10.95.050, the trier of fact finds that there are not sufficient mitigating circumstances to merit leniency, the sentence shall be death. In no case, however, shall a person be sentenced to death if the person had an intellectual disability at the time the crime was committed, under the definition of intellectual disability set forth in (a) of this subsection. A diagnosis of intellectual disability shall be documented by a licensed psychiatrist or licensed psychologist designated by the court, who is an expert in the diagnosis and evaluation of intellectual disabilities. The defense must establish an intellectual disability by a preponderance of the evidence and the court must make a finding as to the existence of an intellectual disability.

(a) "Intellectual disability" means the individual has: (i) Significantly subaverage general intellectual functioning; (ii) existing concurrently with deficits in adaptive behavior; and (iii) both significantly subaverage general intellectual functioning and deficits in adaptive behavior were manifested during the developmental period.

(b) "General intellectual functioning" means the results obtained by assessment with one or more of the individually administered general intelligence tests developed for the purpose of assessing intellectual functioning.

(c) "Significantly subaverage general intellectual functioning" means intelligence quotient seventy or below.

(d) "Adaptive behavior" means the effectiveness or degree with which individuals meet the standards of personal independence and social responsibility expected for his or her age.

(e) "Developmental period" means the period of time between conception and the eighteenth birthday.

(3)(a)(i) Any person convicted of the crime of aggravated first degree murder for an offense committed prior to the person's sixteenth birthday shall be sentenced to a maximum term of life imprisonment and a minimum term of total confinement of twenty-five years.

(ii) Any person convicted of the crime of aggravated first degree murder for an offense committed when the person is at least sixteen years old but less than eighteen years old shall be sentenced to a maximum term of life imprisonment and a minimum term of total confinement of no less than twenty-five years. ((~~A minimum term of life may be imposed, in which case the person will be ineligible for parole or early release.~~))

(b) In setting a minimum term, the court must take into account mitigating factors that account for the diminished culpability of youth as provided in *Miller v. Alabama*, 132 S.Ct. 2455 (2012) including, but not limited to, the age of the individual, the youth's childhood and life experience, the degree of responsibility the youth was capable of exercising, and the youth's chances of becoming rehabilitated.

(c) A person sentenced under this subsection shall serve the sentence in a facility or institution operated, or utilized under contract, by the state. During the minimum term of total confinement, the person shall not be eligible for community custody, earned release time, furlough, home detention, partial confinement, work crew, work release, or any other form of early release authorized under RCW 9.94A.728, or any other form of authorized leave or absence from the correctional facility while not in the direct custody of a corrections officer. The provisions of this subsection shall not apply: (i) In the case of an offender in need of emergency medical treatment; or (ii) for an extraordinary medical placement when authorized under RCW 9.94A.728((~~(3)~~)) (1)(c).

(d) Any person sentenced pursuant to this subsection shall be subject to community custody under the supervision of the department of corrections and the authority of the indeterminate sentence review board. As part of any sentence under this subsection, the court shall require the person to comply with any conditions imposed by the board.

(e) No later than five years prior to the expiration of the person's minimum term, the department of corrections shall conduct an assessment of the offender and identify programming and services that would be appropriate to prepare the offender for return to the community. To the extent possible, the department shall make programming available as identified by the assessment.

(f) No later than one hundred eighty days prior to the expiration of the person's minimum term, the department of corrections shall conduct, and the offender shall participate in, an examination of the person, incorporating methodologies that are recognized by experts in the prediction of dangerousness, and including a prediction of the probability that the person will engage in future criminal behavior if released on conditions to be set by the board. The board may consider a person's failure to participate in an evaluation under this subsection in determining whether to release the person. The board shall order the person released, under such affirmative and other conditions as the board determines appropriate, unless the board determines by a preponderance of the evidence that, despite such conditions, it is more likely than not that the person will commit new criminal law violations if released. If the board does not order the person released, the board shall set a new minimum term not to exceed five additional years. The board shall give public safety considerations the highest priority when making all discretionary decisions regarding the ability for release and conditions of release.

(g) In a hearing conducted under (f) of this subsection, the board shall provide opportunities for victims and survivors of victims of any crimes for which the offender has been convicted to present statements as set forth in RCW 7.69.032. The procedures for victim and survivor of victim input shall be provided by rule. To facilitate victim and survivor of victim involvement, county prosecutor's offices shall ensure that any victim impact statements and known contact information for victims of record and survivors of victims are forwarded as part of the judgment and sentence.

(h) An offender released by the board is subject to the supervision of the department of corrections for a period of time to be determined by the board. The department shall monitor the offender's compliance with conditions of community custody imposed by the court or board and promptly report any violations to the board. Any violation of conditions of community custody established or modified by the board are subject to the provisions of RCW 9.95.425 through 9.95.440.

(i) An offender released or discharged under this section may be returned to the institution at the discretion of the board if the offender is found to have violated a condition of community custody. The offender is entitled to a hearing pursuant to RCW 9.95.435. The board shall set a new minimum term of incarceration not to exceed five years.

NEW SECTION. **Sec.**  RCW 18.108.190 (Inspection of premises by law enforcement personnel) and 1975 1st ex.s. c 280 s 20 are each repealed.

NEW SECTION. **Sec.**  RCW 35.13.165 (Termination of annexation proceedings in cities over four hundred thousand—Declarations of termination filed by property owners) and 1989 c 351 s 7 & 1981 c 332 s 2 are each repealed.

NEW SECTION. **Sec.**  The following acts or parts of acts are each repealed:

(1) RCW 36.105.010 (Purpose) and 1991 c 363 s 99;

(2) RCW 36.105.020 (Definitions) and 1991 c 363 s 100;

(3) RCW 36.105.030 (Minimum requirements) and 1991 c 363 s 101;

(4) RCW 36.105.040 (Creation) and 1991 c 363 s 102;

(5) RCW 36.105.050 (Election of initial community councilmembers) and 2015 c 53 s 68 & 1991 c 363 s 103;

(6) RCW 36.105.060 (Community councilmembers—Election—Terms) and 1991 c 363 s 104;

(7) RCW 36.105.070 (Responsibility of county legislative authority) and 1991 c 363 s 105;

(8) RCW 36.105.080 (Powers) and 1991 c 363 s 106;

(9) RCW 36.105.090 (Annexation) and 1991 c 363 s 107; and

(10) RCW 36.105.100 (Dissolution) and 1991 c 363 s 108.

NEW SECTION. **Sec.**  The following acts or parts of acts are each repealed:

(1) RCW 39.88.010 (Declaration) and 1982 1st ex.s. c 42 s 2;

(2) RCW 39.88.020 (Definitions) and 2011 c 336 s 815 & 1982 1st ex.s. c 42 s 3;

(3) RCW 39.88.030 (Authority—Limitations) and 1982 1st ex.s. c 42 s 4;

(4) RCW 39.88.040 (Procedure for adoption of public improvement) and 1982 1st ex.s. c 42 s 5;

(5) RCW 39.88.050 (Notice of public improvement) and 1982 1st ex.s. c 42 s 6;

(6) RCW 39.88.060 (Disagreements between taxing districts) and 1989 c 378 s 1 & 1982 1st ex.s. c 42 s 7;

(7) RCW 39.88.070 (Apportionment of taxes) and 1982 1st ex.s. c 42 s 8;

(8) RCW 39.88.080 (Application of tax allocation revenues) and 1982 1st ex.s. c 42 s 9;

(9) RCW 39.88.090 (General obligation bonds) and 1982 1st ex.s. c 42 s 10;

(10) RCW 39.88.100 (Tax allocation bonds) and 1982 1st ex.s. c 42 s 11;

(11) RCW 39.88.110 (Legal investments) and 1982 1st ex.s. c 42 s 13;

(12) RCW 39.88.120 (Notice to state) and 1982 1st ex.s. c 42 s 14;

(13) RCW 39.88.130 (Conclusive presumption of validity) and 1982 1st ex.s. c 42 s 15;

(14) RCW 39.88.900 (Supplemental nature of chapter) and 1982 1st ex.s. c 42 s 16;

(15) RCW 39.88.905 (Short title) and 1982 1st ex.s. c 42 s 1; and

(16) RCW 39.88.910 (Captions not part of law—1982 1st ex.s. c 42) and 1982 1st ex.s. c 42 s 17.

NEW SECTION. **Sec.**  RCW 41.20.110 (Withdrawal of pension—Grounds) and 2012 c 117 s 30, 1937 c 24 s 5, & 1909 c 39 s 10 are each repealed.

**Sec.**  RCW 41.56.0251 and 2016 c 241 s 137 are each amended to read as follows:

In addition to the entities listed in RCW 41.56.020, this chapter applies to any charter school established under chapter 28A.710 RCW. ((~~Any bargaining unit or units established at the charter school must be limited to employees working in the charter school and must be separate from other bargaining units in school districts, educational service districts, or institutions of higher education.~~)) Any charter school established under chapter 28A.710 RCW is a separate employer from any school district, including the school district in which it is located.

**Sec.**  RCW 43.135.034 and 2020 c 218 s 4 are each amended to read as follows:

(1)((~~(a) Any action or combination of actions by the legislature that raises taxes may be taken only if approved by a two~~‑~~thirds vote in both the house of representatives and the senate. Pursuant to the referendum power set forth in Article II, section 1(b) of the state Constitution, tax increases may be referred to the voters for their approval or rejection at an election.~~

~~(b)~~)) For the purposes of this chapter, "raises taxes" means any action or combination of actions by the state legislature that increases state tax revenue deposited in any fund, budget, or account, regardless of whether the revenues are deposited into the general fund.

(2) The state or any political subdivision of the state may not impose any tax on intangible property listed in RCW 84.36.070 as that statute exists on January 1, 1993.

NEW SECTION. **Sec.**  RCW 47.44.030 (Removal of facilities—Notice—Reimbursement, when) and 1984 c 7 s 234 & 1961 c 13 s 47.44.030 are each repealed.

NEW SECTION. **Sec.**  The following acts or parts of acts are each repealed:

(1) RCW 49.32.072 (Injunctions—Hearings and findings—Temporary orders—Security) and 2012 c 117 s 130 & 1933 ex.s. c 7 s 7;

(2) RCW 49.32.073 (Injunctions—Complaints, conditions precedent) and 1933 ex.s. c 7 s 8; and

(3) RCW 49.32.074 (Injunctions—Findings and order essential) and 1933 ex.s. c 7 s 9.

NEW SECTION. **Sec.**  RCW 66.24.480 (Bottle clubs—License required) and 2012 c 117 s 281 & 1951 c 120 s 2 (adding a new section to Title 66 RCW) are each repealed.

NEW SECTION. **Sec.**  RCW 66.28.080 (Permit for music and dancing upon licensed premises) and 1969 ex.s. c 178 s 8, 1949 c 5 s 7, & 1937 c 217 s 3 (adding new section 27-A to 1933 ex.s. c 62) are each repealed.

**Sec.**  RCW 35A.66.020 and 1967 ex.s. c 119 s 35A.66.020 are each amended to read as follows:

The qualified electors of any code city may petition for an election upon the question of whether the sale of liquor shall be permitted within the boundaries of such city as provided by chapter 66.40 RCW, and shall be governed by the procedure therein((~~, and may regulate music, dancing and entertainment as authorized by RCW 66.28.080~~)): PROVIDED, That every code city shall enforce state laws relating to the investigation and prosecution of all violations of Title 66 RCW relating to control of alcoholic beverages and shall be entitled to retain the fines collected therefrom as therein provided. Every code city shall also share in the allocation and distribution of liquor profits and excise as provided in RCW 82.08.170, 66.08.190, and 66.08.210, and make reports of seizure as required by RCW 66.32.090, and otherwise regulate by ordinances not in conflict with state law or liquor and cannabis board regulations.

NEW SECTION. **Sec.**  The following acts or parts of acts are each repealed:

(1) RCW 73.04.050 (Right to peddle, vend, sell goods without license—License fee on business established under act of congress prohibited) and 2012 c 117 s 504, 1945 c 144 s 9, & 1903 c 69 s 1; and

(2) RCW 73.04.060 (Right to peddle, vend, sell goods without license—Issuance of license) and 2012 c 117 s 505, 1945 c 144 s 10, & 1903 c 69 s 2.

NEW SECTION. **Sec.**  RCW 85.05.130 (Assessment of benefited lands formerly omitted—Procedure—Appeals) and 2013 c 23 s 385, 1971 c 81 s 157, 1913 c 89 s 1, 1901 c 111 s 1, & 1895 c 117 s 13 are each repealed.

**Sec.**  RCW 9A.72.160 and 1985 c 327 s 1 are each amended to read as follows:

(1) A person is guilty of intimidating a judge if a person directs a threat to a judge because of a ruling or decision of the judge in any official proceeding, or if by use of a threat directed to a judge, a person attempts to influence a ruling or decision of the judge in any official proceeding.

(2) "Threat" as used in this section means:

(a) To communicate, directly or indirectly, the intent immediately to use force against any person who is present at the time; or

(b) Threats as defined in RCW 9A.04.110((~~(25)~~)) (28).

(3) Intimidating a judge is a class B felony.

**--- END ---**

Passed by the Senate February 1, 2023.

Passed by the House April 7, 2023.

Approved by the Governor April 20, 2023.

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