



Law Enforcement

May 2006

Digest

590th Basic Law Enforcement Academy – November 16, 2005 through March 29, 2006

President: Michael Glasgow – King County
Best Overall: Bret Olson – Vancouver Police Department
Best Academic: Bret Olson – Vancouver Police Department
Best Firearms: Noah Zech – Seattle Police Department
Tac Officer: Officer Jeff Eddy – Renton Police Department

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LAW ENFORCEMENT MEDAL OF HONOR CEREMONY IS SET FOR FRIDAY MAY 5, 2006 IN LACEY AT 1:00 P.M.

In 1994, the Washington Legislature passed chapter 41.72 RCW, establishing the Law Enforcement Medal of Honor. This honor is reserved for those police officers who have been killed in the line of duty or who have distinguished themselves by exceptional meritorious conduct. This year's ceremony will take place Friday, May 5, 2006 at the St. Martin's College Pavilion, 5300 Pacific Avenue S.E. in Lacey, Washington, commencing at 1:00 PM. This year the ceremony will be the week prior to Law Enforcement Week across the nation.

This ceremony is a very special time, not only to honor those officers who have been killed in the line of duty and those who have distinguished themselves by exceptional meritorious conduct, but also to recognize all officers who continue, at great risk and peril, to protect those they serve. This ceremony is open to all law enforcement personnel and all citizens who wish to attend.

2006 WASHINGTON LEGISLATIVE UPDATE - - PART ONE OF TWO PARTS

LED EDITORS' INTRODUCTORY NOTE: This is Part One of a two-part compilation of 2006 State of Washington legislative enactments of interest to law enforcement. Part Two will appear next month and will include an index to the two-part LED legislative update. It is possible that we will have no additional legislation to report on next month, in which case the index will be the whole of Part Two.

Note that unless a different effective date is specified in the legislation, acts adopted during the 2006 regular session take effect on June 7, 2006 (90 days after the end of the legislative session). For some acts, different sections have different effective dates. We have indicated such acts with an asterisk on the effective date entry, and we have shown the effective date applicable to the sections that we believe are most critical to law enforcement officers and their agencies.

For many of the acts, as the final part of the entry on the particular act, we have quoted extensive text from a legislative bill report. To save space in the LED, we did not block indent the quoted material from the legislative bill reports. We hope it will be clear from the context that all that follows in the particular entry has been quoted from the bill report.

Thank you to Tom McBride and Pam Loginsky of the Washington Association of Prosecuting Attorneys for providing us with helpful information.

Consistent with our past practice, our Legislative Updates will for the most part not digest legislation in the subject areas of sentencing, consumer protection, retirement, collective bargaining, civil service, tax, budget, and worker benefits.

Text of each of the 2006 Washington acts is available on the Internet at [<http://www.leg.wa.gov/legislature/>]. We will include some RCW references in our entries, but where new sections or chapters are created by the legislation, the State Code Reviser must assign the appropriate code numbers. Codification will likely not be completed until early fall of this year.

We remind our readers that any legal interpretations that we express in the LED do not constitute legal advice, express only the views of the editors, and do not necessarily reflect the views of the Attorney General's Office or of the Criminal Justice Training Commission.

PROHIBITING ALL TOBACCO PRODUCT SAMPLING

Chapter 14 (ESB 5048)

Effective Date: June 7, 2006

Amends RCW 70.155.050 to make it a misdemeanor to engage in the business of "sampling"; whether the practice involves minors or adults, and whether or not the activity occurs in a public place. Under RCW 70.155.010 "sample" continues to be defined as "a tobacco product distributed to members of the general public at no cost or at nominal cost for product promotion purposes." "Sampling" is redefined as "the distribution of samples to members of the public."

REGULATING MORTGAGE BROKERS AND LOAN ORIGINATORS

Chapter 19 (EHB 2340)

Effective Date: January 1, 2007

Among many changes this act makes in title 19 RCW, it amends RCW 19.146.235 to make it a class B felony for a mortgage broker or loan originator to withhold, abstract, remove, mutilate, destroy or secrete records in certain specified circumstances.

CERTIFYING AND DECERTIFYING TRIBAL POLICE OFFICERS

Chapter 22 (HB 2367)

Effective Date: January 1, 2007

Adds a new section to Chapter 43.101 RCW and amends RCW 43.101.085 and 43.101.380. The Substitute House Bill Report includes the following summary of the act:

Authorizes the Criminal Justice Training Commission to grant, deny, or revoke the certification of tribal police officers employed by a tribal government that has voluntarily requested certification for their police officers.

Certification – A tribal government voluntarily requesting certification for their police officers must enter into a written agreement with the CJTC. The agreement must require the tribal law enforcement agency and its officers to comply with all of the requirements for granting, denying, and revoking certification as those requirements are applied to other peace officers certified in the state.

In addition, all officers applying for certification as tribal police officers must meet the same CJTC requirements required for the certification of other peace officers employed in Washington. An application for certification as a tribal police officer must be accepted and processed in the same manner as those for certification of peace officers.

Hearings Panel – A five-member hearings panel must both hear the case and make the CJTC's final administrative decision. When a hearing is requested in relation to the decertification of a tribal police officer, the hearings board must consist of the following persons: (1) one police chief or one sheriff; (2) one tribal police chief; (3) one peace officer who is at or below the level of a first-line supervisor, who is from a city or county law enforcement agency, and who has at least 10 years of experience as a peace officer; (4) one tribal police officer who is at or below the level of first-line supervisor, and who has at least 10 years of experience as a peace officer; and (5) one person who is not currently a police officer and who represents a community college or a four-year college or university.

A "tribal police officer" is defined as any person employed and commissioned by a tribal government to enforce the criminal laws of that government.

REQUIRING BACKGROUND CHECKS FOR EMERGENCY VEHICLE APPLICANTS AND OPERATORS

Chapter 27 (HB 1305)

Effective Date: June 7, 2006

Amends RCW 46.37.194 to require background checks for all applicants and drivers of emergency vehicles.

DECRIMINALIZING VESSEL REGISTRATION PROVISIONS

Chapter 29 (HB 1641)

Effective Date: June 7, 2006

Amends vessel registration provisions in chapter 88.02 RCW to decriminalize failing to register and failing to produce registration when asked.

EXPANDING PRIVILEGE FOR COMMUNICATIONS INVOLVING SEXUAL ASSAULT ADVOCATES

Chapter 30 (HB 2454)

Effective Date: June 7, 2006

Amends one sentence in RCW 5.60.060(7) to read as follows:

A sexual assault advocate may not, without the consent of the victim, be examined as to any communication made between the victim and the sexual assault advocate.

AUTHORIZING DLI WISHA ADMINISTRATIVE WARRANTS

Chapter 31 (SHB 2538)

Effective Date: June 7, 2006

Amends RCW 49.17.070 and adds new sections to chapter 49.17 RCW to authorize superior courts to issue administrative search warrants for purposes of allowing Department of Labor and Industries employees to carry out the Washington Industrial Safety and Health Act.

CLARIFYING PATROL CAR AUDIO-VIDEO RECORDING PROVISION

Chapter 38 (SHB 2876)

Effective Date: June 7, 2006

Amends RCW 9.73.090(1)(c) to accommodate the use of digital video in patrol car audio-video equipment. The Substitute House Bill Report summarizes this act as follows:

The requirement that sound recording equipment be operated simultaneously with video recording equipment that is mounted in a police vehicle is modified. Simultaneous operation is required only "when the operating system has been activated for an event." Once an event has been recorded, the audio equipment may be turned off and the operating system may be placed in its "pre-event" mode.

AUTHORIZING CATASTROPHIC DISABILITY ALLOWANCES FOR LAW ENFORCEMENT OFFICERS AND FIREFIGHTERS

Chapter 39 (HB 2932)

Effective Date: March 14, 2006

Authorizes a line-of-duty catastrophic disability allowance for law enforcement officers and firefighters covered under chapter 41.26 RCW.

CREATING A FIREARMS TRAINING CERTIFICATE FOR RETIRED LAW ENFORCEMENT OFFICERS

Chapter 40 (ESHB 2951)

Effective Date: June 7, 2006

Adds a new section to chapter 36.28A RCW. The Substitute House Bill Report summarizes this act as follows:

A process is created for issuing firearm certificates to Washington residents who are qualified retired law enforcement officers in order to satisfy the certification requirements contained in the federal Law Enforcement Officers Safety Act of 2004.

The Washington Association of Sheriffs and Police chiefs must develop a firearms certificate form to be used by local law enforcement agencies when issuing firearms certificates to retired law enforcement officers.

A retired law enforcement officer may apply to a local law enforcement agency for a firearms certificate. The law enforcement agency may issue the certificate to the retired officer if the retired officer: (1) has been qualified or otherwise found to meet the standards established by the Criminal Justice Training commission for firearms qualifications for active law enforcement officers in the state; and (2) has undergone a background check and is not ineligible to possess a firearm. The firearms qualification may be provided either by the local law enforcement agency or by an individual or entity certified to provide firearms training.

The firearms certificate is valid for a period of one year. An applicant for the firearms certificate must pay a fee of \$36, plus additional charges imposed by the Federal Bureau of Investigation that are passed on to the applicant. The fee is distributed in the same manner as the fee for a concealed pistol license under RCW 9.41.070. The retired law enforcement officer is also responsible for paying the costs of the firearms qualification.

REDEFINING "COMMERCIAL VEHICLE"

Chapter 50 (SB 6549)

Effective Date: June 7, 2006

Amends several sections in Title 46 RCW relating to the definition of "commercial vehicle."

ADDRESSING PREPARATION FOR AND RESPONSE TO PANDEMIC INFLUENZA

Chapter 63 (ESSB 6366)

Effective Date: June 7, 2006

Requires local health districts to develop response plans for possible pandemic influenza.

PROHIBITING PYRAMID PROMOTIONAL SCHEMES

Chapter 65 (SB 6416)

Effective Date: June 7, 2006

Repeals statutes in Title 19 RCW prohibiting (by civil remedies) "chain distribution schemes," and adopts provisions in Title 19 RCW prohibiting (by civil remedies) "pyramid schemes," as defined in the act.

MAKING DRUNK DRIVING A FELONY IN SOME CIRCUMSTANCES

Chapter 73 (HB 3317)

Effective Date: July 1, 2007

Amends, effective July 1, 2007, numerous provisions in chapter 46.61 RCW and chapter 9.94 RCW to make drunk driving a felony if the offender: (a) has four or more prior DUI offenses within 10 years, or (b) has ever been previously convicted of vehicular homicide or vehicular assault committed while under the influence of intoxicating liquor or any drug.

ADDRESSING STALKING OF CHILD PROTECTIVE SERVICES (CPS) WORKERS, CHILD WELFARE WORKERS, AND ADULT PROTECTIVE SERVICES (APS) WORKERS

Chapter 95 (HB 3122)

Effective Date: June 7, 2006

Amends RCW 9A.46.110, the stalking statute, to make it a felony to stalk CPS, child welfare and APS employees of DSHS.

EXPANDING PROVISIONS RELATING TO MISSING PERSONS

Chapter 102 (SSHB 2805)

Effective Date: June 7, 2006

The Second Substitute House Bill Report briefly summarizes this act as follows:

- Requires the Washington Association of County Officials to convene a group of various entities to study ways and develop protocols to improve the reporting and investigation of missing persons.
- Requires the Washington State Forensic Investigations Council and other entities to develop training modules that are essential to the effective implementation and use of missing persons protocols.
- Requires the Washington Association of Sheriffs and Police Chiefs to create and maintain a statewide public website for the posting of relevant information regarding missing persons.
- Requires investigating agencies to file a missing person report and collect deoxyribonucleic acid (DNA) samples when a person is reported missing has not been found within 30 days of the report or at any time the investigating agency suspects criminal activity to be the basis of the victim being missing.
- Requires the Washington State Patrol to store descriptive information and dental records collected from a missing person in the agency's missing person database.

LED EDITORS' NOTE REGARDING SEX CRIMES (AND SEX CRIMINALS) LEGISLATION IN CHAPTERS 122 THROUGH 139 PASSED BY 2006 WASHINGTON LEGISLATURE: We have reported in this update on several enactments relating to sex offenses, sex predators, and/or sex offender registration. Chapters 122 through 139 (not all of which are addressed in this update) address these subject areas. Readers may wish to check all of those chapters on the Legislature's webpage, the address of which is provided on page 2 of this LED in our introductory note regarding this update.

CREATING THE CRIME OF CRIMINAL TRESPASS AGAINST CHILDREN BY REGISTERED SEX OFFENDERS

Chapter 125 (SSB 6775)

Effective Date: March 20, 2006

Adds sections to chapter 9A.44 RCW and amends sentencing provisions at RCW 9.94A.515. The Final Bill Report for this act summarizes it as follows:

A person working for any public or private facility, the primary purpose of which, at any time, is to provide for the education, care, or recreation of a child or children, may order certain persons from the premises of the facility. The class of persons subject to ejection from public facilities or private businesses is limited to persons who are not currently under Juvenile Rehabilitation Administration (JRA) supervision or serving a Special Sex Offender Disposition Alternative (SSODA) suspended sentence and who are Level II and Level III sex offenders. **[But see entry regarding chapter 126 immediately below -- LED Eds.]**

The person who works at the facility must give the person ordered to leave a written notice, informing him or her that he or she must leave and may not return without the written permission of the facility.

If the person who has been ordered to leave refuses to leave or comes back another time, that person may be charged and prosecuted for the crime of criminal trespass against children, a Class C felony, ranked at a Level IV seriousness level for sentencing purposes. The types of

facilities that may prohibit a person from entry include, but are not limited to, community and recreational centers, playgrounds, schools, swimming pools, and state or municipal parks.

An owner, employee, or agent of the facility is not liable for any act or omission in connection with ordering person in the class of offender covered by the bill to leave the facility or failing to eject covered offenders from covered entities.

STRENGTHENING REGISTRATION STATUTES FOR SEX AND KIDNAPPING OFFENDERS

Chapter 126 (HB 2409)

Effective Date: March 20, 2006*

Amends various provisions in chapter 9A.44 RCW. The House Bill Report for this act includes the following summary information:

- Requires sex and kidnapping offenders to provide their “complete residential” addresses when registering.
- Decreases the time within which sex and kidnapping offenders coming from another state must register from 30 days to 72 hours.
- Requires written notices sent to the county sheriff when a sex or kidnapping offender moves or becomes homeless to be signed.
- Requires a homeless sex or kidnapping offender to list the places where he or she has stayed during the previous week, and where he or she plans to stay during the forthcoming week, when the offender checks in with the county sheriff.
- Clarifies that any knowing non-compliance with the registration statute is a crime.
- Makes changes to SSB 6675, which created the crime of Criminal Trespass Against Children. **[See entry regarding chapter 125 immediately above - - LED Eds.]**

The following changes are made to SSB 6775 [chapter 125]:

The definition of “covered offender” is narrowed to include only offenders (1) who are registered sex offenders and (2) who meet all of the other criteria in the original definition. Language is added to clarify the circumstances in which a covered entity may give written permission to a covered offender to come back on the premises. The entity may give written permission of entry and use to a covered offender to enter and remain on the legal premises of the entity at particular times and for lawful purposes, including, but not limited to, conducting business, voting, or participating in recreational or educational activities. A person who is ejected from a covered entity may file a petition in district court alleging that he or she does not meet the definition of a covered offender. The district court must conduct a hearing on the petition within 30 days in which the person has the burden of proving that he or she is not a covered offender. If the court finds, by a preponderance of the evidence, that the person is not a covered offender, the court must order the covered entity to rescind the written notice that ejected the person and must order the covered entity to pay the person’s costs and reasonable attorney’s fees. The crime of Criminal Trespass against Children is changed to an “un-ranked” class C felony. This means that a person committing the crime will face a jail sentence of 0-12 months.

CHANGING REGISTRATION REQUIREMENTS FOR SEX OFFENDERS COMING INTO WASHINGTON TO RESIDE

Chapter 127 (SSB 6144)

Effective Date: September 1, 2006

Amends RCW 9A.44.130 to: (1) expand the number of out-of-state sex and kidnapping offenders moving to Washington who are subject to registration requirements; (2) shorten the

period within which such offenders must register; and (3) require a certain notice to such persons by county sheriffs.

ADDRESSING FAILURE TO REGISTER AS A SEX OFFENDER

Chapter 128 (2SSB 6319)

Effective Date: June 7, 2006*

The Final Bill Report summarizes this act as follows:

The bill defines the crime of failure to register as non-compliance with any of the requirements of the registration statute, eliminating existing language that defines the crime as failure to register with the county sheriff or changing one's name without notifying law enforcement. It requires the court to impose a term of community custody for failure to register. For sentencing purposes, the crime of failure to register is changed from an unranked felony to a seriousness level II for second and subsequent offenses. When calculating the standard sentencing range for an offender, each prior conviction for failure to register as a sex offender will count as one criminal history point. Other sex offenses will count as three criminal history points each.

INCREASING THE MONITORING OF REGISTERED SEX OFFENDERS

Chapter 129 (SSB 6519)

Effective Date: June 7, 2006*

Amends RCW 9A.44.130. The Final Bill Report for this act summarizes the effect of the amendments as follows:

Persons classified by the End of Sentence Review Commission or the county sheriff as either a Level II and Level III sex offender must report to the county sheriff's office, in person, every 90 days during normal business hours. A person may petition the superior court in the county where he or she lives or reports to be relieved of the duty to report every ninety days. The court must grant the petition if the petitioner can show that he or she has complied with the reporting requirement for a period of at least five years and has not been convicted of a criminal violation for failure to register for at least five years and if the court determines that the reporting no longer serves a public safety purpose.

ADDRESSING LOCAL RESIDENCE RESTRICTIONS FOR SEX OFFENDERS

Chapter 131 (SSB 6325)

Effective Date: June 7, 2006

The House Bill Report summarizes this act as follows:

The sunset clause on SHB 1147, passed in 2005, which established residential restrictions for certain convicted sex offenders, is repealed. The state's preemption of local governments' laws restricting where sex offenders can live applies to laws restricting the residency of persons convicted of any sex offenses at any time, except that the preemption does not apply to any local laws adopted before March 1, 2006. The Association of Washington Cities (AWC) must develop statewide consensus standards that local governments use when determining whether to impose local residency restriction on sex offenders within cities and towns. If the AWC presents these standards to the Legislature and the Governor by December 31, 2007, the preemption provisions expire on July 1, 2008, and may only be revived by an affirmative act of the Legislature through duly enacted legislation. If the AWC does not present its standards to the Legislature and the Governor by that date, the preemption provisions stay in place.

TOLLING THE STATUTE OF LIMITATIONS FOR FELONY SEX OFFENSES UNTIL ONE YEAR FROM DATE DNA CONCLUSIVELY ESTABLISHES IDENTITY OF SUSPECT

Chapter 132 (SSB 5042)

Effective Date: June 7, 2006

Amends RCW 9A.04.080 to provide an alternative tolling of the statute of limitations for felony sex offenses as defined in RCW 9.94A.030 to “one year from the date on which the identity of the suspect is conclusively established by [DNA] testing. . .”

Under prior Washington appellate court interpretation of constitutional ex post facto protection, this enactment does not extend the statute of limitations for those crimes as to which the prior limitations period had expired as of the effective date of the enactment. See *State v. Hodgson*, 44 Wn. App. 592 (1986).

CREATING SEXUAL ASSAULT PROTECTION ORDERS

Chapter 138 (SHB 2576)

Effective Date: June 7, 2006

This act creates procedures for sexual assault protection orders. It amends RCW 9A.46.060, 10.14.130, 10.31.100 (adding to mandatory arrest provisions), 19.220.010, 26.50.110, 26.50.160, and 59.18.575. The enactment also adds a new chapter to Title 7 RCW.

EXPANDING CRIME OF COMMUNICATING WITH MINOR FOR IMMORAL PURPOSES; INCREASING PENALTIES FOR CERTAIN SEX OFFENSES

Chapter 139 (SSSB 6172)

Effective Date: June 7, 2006*

Amends RCW 9.68A.090(2) to make it a class C felony to “communicate with a minor or with someone the person believes to be a minor for immoral purposes through the sending of an electronic communication.”

Also amends the sentencing statute, RCW 9.94A.515, to increase the penalty for (1) possession of depictions of a minor engaged in sexually explicit conduct and (2) voyeurism.

JENDA JONES AND DENISE COLBERT SAFE BOATING ACT – TEAK SURFING MADE A NATURAL RESOURCES INFRACTION

Chapter 140 (SB 6364)

Effective Date: June 7, 2006*

The Final Bill Report summarizes the background and content of this act as follows:

Background: Teak surfing, also known as bodysurfing, is a boating activity in which an individual enters the water and grips the swim platform of a motorized vessel. As the vessel moves through the water at low speeds, it produces a trailing wave just behind the boat. The person holding onto the swim platform can then let go and body surf this trailing wave, which will carry that person along behind the boat.

The United State Coast Guard has stated that because teak surfing takes place so near a boat’s motor, teak surfers are exposed to elevated carbon monoxide levels from vessel exhaust. The National Institute for Occupational Safety and Health has found deaths resulting from as little as one to two minutes of teak surfing related carbon monoxide exposure. Teak surfing is also dangerous, according to the Coast Guard, because it occurs so near a boat’s propeller and because participants do not wear life jackets while teak surfing.

Recently, jurisdictions, including Oregon and California, have prohibited teak surfing.

Summary: The operation of a motor boat or vessel while an individual is teak surfing, platform dragging, or bodysurfing behind the boat or vessel is prohibited.

The operation of a motor boat or vessel while an individual is occupying or holding onto a swim platform, step, or ladder is also prohibited. This provision does not apply in certain limited circumstances, such as when an individual occupies a swim platform to assist with docking or departing.

The terms teak surfing, platform dragging, and bodysurfing are defined. A violation of these provisions is a natural resources infraction, punishable by a fine not to exceed \$100.

[Effective January 1, 2007] Any new or used motor driven boat or vessel sold within the state must display a carbon monoxide warning sticker developed or approved by the Department of Licensing (Department). Additionally, the Department must include an informational brochure about the dangers of carbon monoxide poisoning and vessels, as well as the warning stickers developed by the Department, with vessel registration materials mailed when registrations are due or become due for two years after the effective date of the provision. After two years, such materials may be included upon recommendation by the Director of the Department.

Current statutory language directing the State Parks and Recreation Commission to include the hazards of carbon monoxide in its recreational boating fire prevention educational program is removed.

The act is titled the Jenda Jones and Denise Colbert Safe Boating Act.

PROTECTING CERTAIN TYPES OF VICTIMS OF ARSON AND MALICIOUS MISCHIEF FROM ADVERSE INSURER ACTIONS

Chapter 145 (SHB 2481)

Effective Date: June 7, 2006

The Substitute Senate Bill Report summarizes this act as follows:

Insurers may not cancel or non-renew, or change the terms or benefits of a property insurance policy of a health care facility, independent clinic or provider, or a religious organization because of a claim for loss incurred due to arson or malicious mischief. Insurers may, however, take underwriting actions due to other factors.

Insured organizations and providers who are victims must file timely police reports and cooperate with law enforcement.

Insurers must notify the OIC if they take underwriting actions (during a five year period) against insureds who have filed claims based on the crimes of arson or malicious mischief.

MODIFYING PROVISIONS REGARDING ABANDONED OR DERELICT VESSELS ON AQUATIC LANDS

Chapter 153 (SSB 6223)

Effective Date: June 7, 2006

Adds a section to chapter 79.100 RCW making it a misdemeanor to cause a vessel to become abandoned or derelict upon aquatic lands. Also makes other changes in chapter 79.100 RCW governing the actions of authorized public entities relating to possible abandoned or derelict vessels.

CLARIFYING DEAD ANIMAL DISPOSAL REQUIREMENT

Chapter 155 (SB 6371)

Effective Date: June 7, 2006

Amends provisions in chapter 16.68 RCW. Note that this act does not change the classification of violation of the dead animal disposal provisions as a misdemeanor. RCW 16.68.180. The Final Bill Report summarizes this enactment as follows:

Dead animal disposal provisions are narrowed to apply only to "livestock," including horses, mules, donkeys, cattle, bison, sheep, goats, swine, rabbits, llamas, alpacas, ratites, poultry, waterfowl, and game birds. "Livestock" does not include most free ranging wildlife.

WSDA is granted rulemaking authority to prescribe the time frame and methods of disposal of livestock that die from disease. Disposal methods may include burial, composting, incinerating, landfilling, and natural decomposition or rendering.

Only livestock found dead from an unknown cause are presumed to have died from disease.

REGULATING MILK PRODUCTS

Chapter 157 (SSB 6377)

Effective Date: June 7, 2006

Authorizes court issuance of administrative search warrants to certain Department of Agriculture staff for inspecting dairy farms in some circumstances, and adds a new section to chapter 15.36 RCW, making it a misdemeanor to sell raw milk without a license (subsequent offenses are gross misdemeanors).

COMPENSATION OF UNDERINSURED MOTORISTS

Chapter 187 (SHB 2415)

Effective Date: June 7, 2006

Amends RCW 48.22.030 to, among other things, require that a person seeking underinsured motorist coverage from an insurer relating to an intentional tort make a report of the incident to local law enforcement and cooperate in the law enforcement agency's investigation of the crime.

EXPANDING RESTRICTIONS ON PURCHASING, POSSESSING METHAMPHETAMINE PRECURSORS

Chapter 188 (HB 2567)

Effective Date: June 7, 2006

Adds a new section to chapter 9.91 RCW. The House Bill Report summarizes this act as follows:

It is a gross misdemeanor offense to knowingly purchase in a 30-day period or possess any quantity of iodine in its elemental form, an iodine matrix, or more than two pounds of methylsulfonylmethane (MSM).

The penalties do not apply to the following individuals:

- A person who possesses iodine in its elemental form or an iodine matrix as a prescription drug, under a prescription issued by a licensed veterinarian, physician, or advanced registered nurse practitioner;
- A person who possess iodine in its elemental form, an iodine matrix, or any quantity of MSM in its powder form and is actively engaged in the practice of animal husbandry of livestock;

- A person who possesses iodine in its elemental form or an iodine matrix in conjunction with experiments conducted in a chemistry-related laboratory maintained by a: school, manufacturing facility, government agency, or research facility in the course of lawful business activities;
- A veterinarian, physician, advanced registered nurse practitioner, pharmacist, retail distributor, wholesaler, manufacturer, warehouseman, or common carrier, or an agent of any of these persons in the regular course of lawful business activities; or
- Anyone working in a general hospital in the regular course of employment at the hospital.

The Washington State Patrol must develop a form to be used in recording transactions involving iodine in its elemental form, an iodine matrix, or MSM. A person who purchases any quantity of iodine in its elemental form, an iodine matrix, or any quantity of MSM must present an identification card or driver's license before purchasing the item. A person who sells or otherwise transfers any quantity of iodine or MSM to an authorized person must record each sale or transfer. The record must be retained by the person for at least three years. Any law enforcement agency may request access to the records. Failure to make or retain a record required is a misdemeanor offense. Failure to comply with a request for access to records is a misdemeanor offense.

"Iodine matrix" is defined as iodine at a concentration greater than 2 percent by weight in a matrix or solution. "Matrix" means something, as a substance, in which something else originates, develops, or is contained. "Methylsulfonylmethane" or MSM means MSM in its powder form only, and does not include products containing MSM in other forms such as liquids, tablets, capsules not containing MSM in pure powder form, ointments, creams, cosmetics, foods, and beverages.

PROHIBITING SEX WITH ANIMALS

Chapter 191 (SSB 6417)

Effective Date: June 7, 2006

Amends the crime of "animal cruelty" in RCW 16.52.205 by adding an alternative variation of the crime. The amendments include the following definition of "animal": "every creature, either alive or dead, other than a human being." The Final Bill Report for this act summarizes it as follows:

Animal cruelty in the first degree is committed when a person knowingly engages in sexual conduct or sexual contact with an animal. It also occurs when a person knowingly causes or aids another person to engage in sexual conduct or sexual contact with an animal. A person who knowingly permits such conduct or contact with an animal to occur on premises under his or her control or who knowingly participates as an observer, organizer, promoter, or advertiser of such conduct is also guilty of animal cruelty in the first degree. Animal cruelty in the first degree that is committed by engaging in any of the four above described types of conduct is a class C felony and is ranked at seriousness level III.

In addition to the penalties in statute for a class C felony, the court may order that the convicted person (1) refrain from harboring or owning animals or residing in a household where animals are present; (2) participate in appropriate counseling; and (3) reimburse the animal shelter or humane society as a result of the offender's criminal behavior. If the court has reasonable grounds to believe sexual conduct or sexual contact with an animal has occurred, it may order the seizure of all animals involved in the violation. An exemption is created for accepted animal husbandry practices or accepted veterinary medical practices by a licensed veterinarian or certified veterinary technician. Sexual conduct and contact are defined in the legislation.

PROHIBITING THE UNAUTHORIZED SALE OF TELEPHONE RECORDS

Chapter 193 (ESSB 6776)

Effective Date: June 7, 2006

Adds a new section to chapter 9.26A RCW criminalizing unauthorized sale of telephone records. The Final Bill Report summarizes the background and content of this act as follows:

Background: Customer Proprietary Network Information (CPNI). Federal and state laws require telecommunications companies to protect a customer's CPNI, such as the customer's unlisted telephone number, what numbers are called, the length and price of such calls, and information about any subscribed services.

It has recently been reported that third-party data brokers have been using unscrupulous techniques, called "pretexting," to fool telecommunications companies into revealing a customer's CPNI. Pretexting includes cracking on-line accounts and impersonating customers. These brokers have been openly advertising on the internet. In July 2005, the Electronic Privacy Information Center, a public interest research center, identified 40 websites selling telephone calling records and other confidential information.

Summary: Creating the Crime of "Unauthorized Sale or Procurement of Telephone Records. It is a class C felony to intentionally sell, knowingly purchase, or fraudulently obtain a person's telephone records without the person's permission. It is a gross misdemeanor to knowingly receive a person's telephone records without the person's permission. The Criminal Profiteering Act is amended to include the authorized sale or procurement of telephone records, which allows special remedies such as civil forfeiture and treble damages.

Exceptions. The following exceptions are made: (1) any actions by a government agency or its employees in the performance of official duties; and (2) specified actions by a telecommunications company that are necessary to conduct business or are authorized by law or the customer.

Additional Civil Remedies. In addition to criminal penalties, violators may also be subject to injunctive relief and damages of at least \$5,000 per violation. Reasonable attorneys' fees and other costs of litigation are also recoverable.

Definitions. Various terms are defined, such as "telephone record," which includes telephone numbers and calling records, but does not include caller ID or similar services.

EXPANDING PEER SUPPORT GROUP COUNSELOR PRIVILEGE TO COVER FIRE DEPARTMENT EMPLOYEES

Chapter 202 (HB 2366)

Effective Date: June 7, 2006

Amends RCW 5.60.060 to make peer support group counselor communications privileged for fire department employees; the privilege parallels that for law enforcement agency employees.

MAKING TECHNICAL CORRECTIONS AND OTHER CHANGES IN THE PUBLIC DISCLOSURE LAW

Chapter 209 (HB 2520)

Effective Date: July 1, 2006

Amends the Public Disclosure Act exception in RCW 42.56.250(3) for public employees and volunteers' personal information to cover "personal wireless telephone numbers, personal

electronic mail addresses, social security numbers, and emergency contact information of employees or volunteers of a public agency, and the names, dates of birth, residential addresses, residential telephone numbers, personal wireless telephone numbers, personal electronic mail addresses, social security numbers, and emergency contact information of dependents of employees or volunteers.”

Amends the Public Disclosure Act exemption provisions in RCW 42.56.330 to restrict police access to transponder records to toll enforcement unless the police officer has a warrant or other court order.

CLARIFYING LAW ALLOWING LOCAL JURISDICTIONS TO PERMIT OFF-ROAD VEHICLES ON DESIGNATED LOCAL ROADS

Chapter 212 (HB 2617)

Effective Date: June 7, 2006

The House Bill Report summarizes this act as follows:

Off-Road Vehicle Use

The following cities or counties may allow the use of off-road vehicles on designated city or county roads, including highway roads: Cities with a population less than 3,000; and counties, if the road or highway is a direct connection between a city with a population less than 3,000 and an ORV recreation facility. The ORVs operating on designated city or county roads are exempt from the licensing and equipment standards that apply to vehicles operating on highway roads. Such ORVs are not exempted from the use permit, equipment, and operating standards generally applied to ORV use.

Limited Liability for Recreational Use of Lands

RCW 4.24.210 regarding limited liability for unintentional injuries sustained on recreational lands is applied to: Certain publicly owned ORV sports parks where a fee of not more than \$20 is charged for access; and public facilities accessed by a highway, street, or road for the purposes of ORV use.

PROTECTING DEPENDENT PERSONS BY EXPANDING CRIMINAL MISTREATMENT STATUTE

Chapter 228 (ESHB 1080)

Effective Date: June 7, 2006

The Substitute House Bill Report summarizes this act in part as follows:

The circumstances under which a person can be guilty of criminal mistreatment [under chapter 9A.42 RCW] are expanded to include when a person who has assumed the responsibility to provide a dependent person the basic necessities of life withholds the basic necessities of life. However, Good Samaritans and government agencies that regularly provide care or assistance to dependant persons are provided protection from liability for negligent acts that may rise to the level of criminal mistreatment in the third or fourth degree.

A “Good Samaritan” is defined as “any individual or group of individuals who are not related to the dependent person; who voluntarily provides assistance or services of any type to the dependent person; who is not paid, given gifts, or made a beneficiary of any assets valued at \$500 or more, for any reason, by the dependent person, the dependent person’s family, or the

dependent person's estate; and who does not commit or attempt to commit any other crime against the dependent person or the dependent person's estate."

. . . The circumstances under which a person can be guilty of abandonment of a dependent person [under chapter 9A.42 RCW] are expanded to include when a person who assumed the responsibility to provide a dependent person the basic necessities of life abandons the dependent person.

[Bracketed text inserted by LED Editors]

PROHIBITING FALSE OR MISLEADING COLLEGE DEGREES

Chapter 234 (ESHB 2507)

Effective Date: June 7, 2006

Addresses false or misleading college degrees. Adds a new section to chapter 9A.60 RCW: (1) making it a class C felony to issue a "false academic credential" (as defined in the new section); and (2) making it a gross misdemeanor to knowingly use a "false academic credential."

REQUIRING DISCLOSURE TO LAW ENFORCEMENT OF SPECIFIED HEALTH CARE INFORMATION FOR LAW ENFORCEMENT PURPOSES

Chapter 235 (ESSB 6106)

Effective Date: March 27, 2006

The Final Bill Report summarizes the background and content of this act as follows:

Background: The Health Insurance Portability and Accountability Act (HIPAA) established federal standards for disclosure of protected health care information by health care providers, including hospitals. Both state law and HIPAA govern disclosure of health care information.

Engrossed Substitute Senate Bill 5158 enacted in 2005 addressed a variety of state health care information disclosure issues, including patient authorization for release of health care information, and clarifying information that allows a health care provider to disclose information to a law enforcement official that the provider in good faith believes constitutes evidence of a criminal conduct that occurred on the premises. This same law enables a provider to disclose basic identifying information about a patient brought in by a public health authority (fire, police, sheriff). However, current law does not provide for the mandatory release of health care information to law enforcement.

Although dental files can be made available to law enforcement agencies attempting to locate missing persons, there is currently no standard set for the quality of copies of dental records to be provided, nor is there a provision made for circumstances where next of kin cannot be located or refuse to provide consent to release of the missing person's dental records.

Summary: A health care provider is require to disclose health care information about a patient without the patient's consent upon request of local, state, or federal law enforcement authorities for any patient who has been, or is being, treated for any injury arising from (1) the discharge of a firearm; (2) a sharp or pointed instrument which law enforcement authorities reasonably believe to have been intentionally inflicted; or (3) a blunt force injury which law enforcement authorities reasonable believe resulted from a criminal act. Law enforcement authorities can make the request for the information orally or in writing to a nursing supervisor, administrator, or designated privacy official.

An individual responding to such a request must provide the following information about the patient, if known: name, address, gender, age, condition, diagnosis, status of consciousness upon admission, provider name, whether or not the patient has been transferred to another facility, and the patient's discharge time and date.

A definition is provided for "federal, state, or local law enforcement authorities." It includes those authorities who are empowered by law to investigate or prosecute alleged or potential criminal violations of law.

In the case of a person reported missing and not found within 30 days of the report, diagnostic quality copies of the missing person's dental records must be provided by the missing person's dentist if presented with written consent from the person's family. In the event family cannot be located, law enforcement authorities may submit a statement that the next of kin could not be located, or that the next of kin have refused to consent, and law enforcement authorities have reason to believe they may have been involved in the missing person's disappearance.

PROHIBITING SELLERS OF TRAVEL FROM PROMOTING TRAVEL FOR SEX TOURISM

Chapter 250 (SB 6731)

Effective Date: June 7, 2006

Includes a legislative findings section and adds a new section to chapter 9A.88 RCW and a new section to chapter 19.138 RCW. The Final Bill Report summarizes this act as follows:

A person commits the offense of promoting travel for prostitution if the person knowingly sells or offers to sell travel services that include or facilitate travel for the purpose of engaging in what would be patronizing a prostitute or promoting prostitution, if occurring in Washington. This offense is a class C felony.

No seller of travel is to promote travel for prostitution or sell or advertise travel services for the purposes of: engaging in a commercial sex act; offering sex acts as an enticement for tourism; or facilitating the availability of sex acts or escorts.

PROTECTING CONFIDENTIALITY OF DOMESTIC VIOLENCE INFORMATION

Chapter 259 (ESHB 2848)

Effective Date: June 7, 2006

The Substitute House Bill Report briefly summarizes this act as follows:

- Makes communication between a domestic violence victim and a domestic violence advocate privileged.
- Prohibits a domestic violence program from disclosing information about a recipient of domestic violence services unless the recipient consents or unless required by statute or court order.
- Requires the Department of Social and Health Services to review methods for improving confidentiality of information of public assistance recipients.

EXTENDING CRIME VICTIMS' COMPENSATION TO FAILURE-TO-SECURE-LOAD VICTIMS

Chapter 268 (HB 2612)

Effective Date: June 7, 2006

Amends RCW 7.68.020 to include failure to secure a load in the first degree as a compensable crime under the Crime Victims' Compensation Act.

DELETING REQUIREMENTS THAT CITATIONS BE SIGNED, THUS MEANING THAT THERE WILL NO LONGER BE AN OFFENSE OF REFUSAL TO SIGN A CITATION

Chapter 270 (SHB 1650)

Effective Date: June 7, 2006

Amends numerous RCW sections in Title 46 RCW, Title 7 RCW, and other RCW titles. Deletes from all of these statutes the requirement that a violator sign a citation. This means that there is no longer an offense of refusal to sign a citation under the traffic code and other codes amended. The Substitute House Bill Report summarizes this act as follows:

The requirement that a person cited for a traffic or other civil infraction or citation sign the notice of infraction or citation is removed, and the refusal to sign such notices is decriminalized. The requirement that a person who is arrested for a traffic law violation punishable as a misdemeanor sign a notice of written promise to appear in court in order to secure his or her release is removed. A person who receives a statement of his or her options and the procedures for responding to a notice of civil infraction, and thereafter fails to exercise those options in a timely manner, is guilty of a misdemeanor.

ADDRESSING ORGANIZED RETAIL THEFT

Chapter 277 (HB 2704)

Effective Date: June 7, 2006

Adds new sections to chapter 9A.56 RCW, amends RCW 9A.56.010, 9A.82.010 and 9.94A.515. The House Bill Report summarizes this act as follows:

I. Theft Related Crimes

Three new theft-related crimes are established. Theft with the Intent to Resell, Organized Retail Theft, and Retail Theft with Extenuating Circumstances.

A. Theft with the Intent to Resell

A person commits Theft with the Intent to Resell if he or she commits theft of property with a value of at least \$250 with the intent to resell the property for monetary or other gain. The person commits Theft with the Intent to Resell in the first degree if the property has a value of \$1,500 or more. Theft with the Intent to Resell in the first degree is a class B felony with a seriousness level of III. The person commits Theft with the Intent to Resell in the second degree if the property has a value of at least \$250, but less than \$1,500. Theft with the Intent to Resell in the second degree is a class C felony with a seriousness level of II.

B. Organized Retail Theft

A person commits Organized Retail Theft if he or she commits Theft or Possession of Stolen Property with an accomplice and the property has a value of at least \$250. The person commits Organized Retail Theft in the first degree if the property has a value of \$1,500 or more. Organized Retail Theft in the first degree is a class B felony with a seriousness level of III. The person commits Organized Retail Theft in the second degree if the property has a value of at least \$250, but less than \$1,500. Organized Retail Theft in the second degree is a class C felony with a seriousness level of II.

C. Retail Theft with Extenuating Circumstances

A person is guilty of Retail Theft with Extenuating Circumstances if he or she commits theft of property from a mercantile establishment and one of the following extenuating circumstances exists:

- The person leaves through an emergency exit to facilitate the theft;
- The person is in possession of an item designed to overcome security systems such as a lined bag or a tag remover;
- The person committed a theft at three or more separate and distinct mercantile establishments within a 180-day period.

The person is guilty of Retail Theft with Extenuating Circumstances in the first degree if the theft involved constitutes Theft in the first degree. Retail Theft with Extenuating Circumstances in the first degree is a class B felony with a seriousness level of III. The person is guilty of Retail Theft with Extenuating Circumstances in the second degree if the theft involved constitutes Theft in the second degree. Retail Theft with Extenuating Circumstances in the second degree is a class C felony with a seriousness level of II. The person is guilty of Retail Theft with Extenuating Circumstances in the third degree if the theft involved constitutes Theft in the third degree. Retail Theft with Extenuating Circumstances in the third degree is an unranked class C felony.

II. Aggregation

For purposes of determining the value of the property involved for Theft with the Intent to Resell and Organized Retail Theft, a series of thefts may be aggregated to determine the degree of the crime if they were committed by the same person from one or more mercantile establishments over a 180-day period. For purposes of Theft, Theft with the Intent to Resell, and Organized Retail Theft, thefts committed by the same person in different counties that have been aggregated may be prosecuted in any county in which one of the thefts occurred.

III. Criminal Profiteering

Theft with the Intent to Resell and Organized Retail Theft are added to the definition of “criminal profiteering” under the CPA.

CLARIFYING AUTHORITY OF LAW ENFORCEMENT OFFICERS TO ARREST CONDITIONALLY RELEASED SEXUALLY VIOLENT PREDATORS

Chapter 282 (HB 3205)

Effective Date: June 7, 2006

The House Bill Report summarizes the background and content of this act as follows:

Background:

Under the Community Protection Act of 1990, a sexually violent predator may be civilly committed after the completion of his or her criminal sentence. A sexually violent predator is a person who: (1) has been convicted of, found not guilty by reason of insanity of, or found to be incompetent to stand trial for, a crime of sexual violence, and (2) suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory acts of sexual violence if not confined to a secure facility. Sexually violent predators are committed to the custody of the Department of Social and Health Services (DSHS) for control, care, and individualized treatment. Most sexually violent predators are currently housed at the Special Commitment Center on McNeil Island.

A sexually violent predator who has been civilly committed is entitled to an annual review of his or her condition. As part of this evaluation, a court may order that the person be conditionally released to a less restrictive alternative (LRA). An LRA placement is only authorized if it is in the best interests of the person and adequate safeguards can be put in place to protect the community.

In 2001, the Legislature authorized the DSHS to operate a type of LRA known as a secure community transition facility (SCTF). A variety of security measures are specified for SCTFs. For example, residents of a SCTF must wear electronic monitoring devices at all times. If a resident leaves an SCTF for employment or treatment, he or she must be accompanied by at least one SCTF staff member at all times. The DSHS is currently operating two SCTFs, one on McNeil Island and one in south Seattle.

If the prosecuting attorney, the supervising community corrections officer (CCO), or the court believes that a person on LRA status is not complying with the terms and conditions of his or her release, the court or the CCO may order the person to be apprehended. Once the person is apprehended, the court must schedule a hearing to determine whether the person's conditional release should be altered or revoked.

Summary of Bill:

A law enforcement officer who has responded to a request for assistance from an employee of the DSHS may apprehend a person on LRA status if the officer reasonably believes that the person is not complying with the terms of his or her conditional release. The person may be detained in the county jail or may be returned to the SCTF.

CREATING AN INSURANCE FRAUD PROGRAM

Chapter 284 (SSB 6234)

Effective Date: July 1, 2006

Creates an antifraud unit within the Office of the Washington Insurance Commissioner (OIC) and, among other things, designates OIC fraud investigators as "limited authority peace officers" under chapter 10.93 RCW.

AUTHORIZING JUDICIAL ORDERS FOR DISTRAINT OF PERSONAL PROPERTY

Chapter 286 (SSB 6441)

Effective Date: June 7, 2006

Adds a new section to chapter 84.56 RCW providing that when there is probable cause to believe that there is property within the county subject to distraint pursuant to RCW 84.56.070 or 84.56.090, any judge of the superior court or district court in the county in which such property is located may, upon the request of the county treasurer or their deputy, issue a warrant directed to the county treasurer or their deputy commanding the search for and seizure of the property described in the request for warrant at the place or places described in the request for warrant. The process for issuance, execution, and return of warrant is the same as for a criminal warrant.

MODIFYING ANIMAL FIGHTING PROVISIONS TO, AMONG OTHER THINGS, COVER SPECTATORS

Chapter 287 (SB 6568)

Effective Date: June 7, 2006

Amends RCW 16.52.117, which continues to prohibit as a class C felony the exhibition of animal fighting, and continues to restrict the definition of "animal" under this offense to "dogs

and male chickens.” The Final Bill Report summarizes as follows this act amending RCW 16.52.117:

It is clarified that the offense requires knowing promotion, organization, participation in, advertisement, or performance of any service in the furtherance of animal fighting. It is also clarified that the offense includes being a spectator, as well as that the wagering activity may occur at any place or building.

PROHIBITING INTERNET GAMBLING

Chapter 290 (SSB 6613)

Effective Date: June 7, 2006

The Final Bill Report summarizes this act amending RCW 9.46.240 and RCW 67.70.040 as follows:

The internet and telecommunications systems are added to the list of means over which a person is prohibited from knowingly transmitting or receiving wagers or other gambling information. The penalty for knowingly engaging in such illegal transmission or receipt is increased from a gross misdemeanor to a class C felony. The Lottery Commission is prohibited from offering any game where the internet can be used to buy tickets or chances.

An affirmative vote of 60 percent of both houses of the Legislature is required before the Lottery Commission may offer any lottery game that allows or requires a player to use a device that electronically replicates any game of chance, including electronic scratch tickets.

PROHIBITING FRAUDULENT FILING OF VEHICLE REPORTS OF SALE

Chapter 291 (SSB 6676)

Effective Date: June 7, 2006

Adds a new section to chapter 9.45 and amends RCW 46.12.102 and 46.12.101. The Final Bill Report summarizes this act as follows:

A person who files a vehicle report of sale without the knowledge of the [purported] transferee is guilty of fraudulent filing of a vehicle report of sale. If the unknowing transferee, or victim, incurred damages in an amount less than \$250, the transferor is guilty of a gross misdemeanor. If the monetary damage to the victim is more than \$250 but less than \$1500, the transferor is guilty of a class C felony. Fraudulent filing of a vehicle report of sale is a class B felony if the victim incurred damages in an amount greater than \$1500.

The penalty for delay of application of transfer will be waived if the transferee had no knowledge of the filing of the vehicle report of sale and signs an affidavit to that fact. When a transferee had no knowledge of the filing of the vehicle report of sale, he or she is relieved of civil or criminal liability for the operation of the vehicle and liability is transferred to the seller shown on the report of sale.

[Bracketed word inserted by LED editors]

MODIFYING VEHICLE EQUIPMENT STANDARDS

Chapter 306 (HB 2465)

Effective Date: June 7, 2006

Amends a number of statutes in chapter 46.37 RCW involving vehicle equipment. Makes it a traffic infraction - - (1) to operate a passenger car assembled after September 1, 1985; or (2) a passenger truck, passenger van, or passenger sports utility vehicle manufactured or assembled

after September 1, 1993 - - without a working rear center high-mounted stop light. Removes the decibel requirement from RCW 46.37.390, which prohibits excessively loud mufflers.

IMPLEMENTING RECOMMENDATIONS OF WASHINGTON AGO METHAMPHETAMINE TASK FORCE

Chapter 339 (E2SSB 6239)

Effective Date: June 7, 2006*

In part, the Final Bill Report briefly summarizes the background of this act as follows:

Methamphetamine (meth) is an addictive stimulant drug. A task force convened by the Attorney General in 2005, which included legislators, law enforcement officers, prosecutors, treatment providers, and other stakeholders, assessed the extent of the meth problem in Washington State. The task force recommended changes to Washington laws in the areas of substance abuse reduction including: 1) drug-free workplace provisions, pilot programs and task forces; 2) cleanup of contaminated property; and 3) criminal penalties and procedures.

The Final Bill Report summarizes the content of this enactment as follows:

Substance Abuse Reduction: Counties who impose the tax authorized in SB 5763 [adapted in 2005] are eligible to seek up to \$100,000 from the Legislature for additional mental health or substance abuse treatment programs for persons addicted to methamphetamine, beginning in fiscal year 2008 and ending in fiscal year 2010. Three pilot projects are established to provide rural drug task forces to the three parts of the state. Each pilot project will receive four additional deputy sheriffs, two deputy prosecutors, and one clerk. Legislative intent is declared to provide the pilot projects with \$1.6 million in funding, and to provide a minimum of \$4 million in funding for multi-jurisdictional task forces currently in operation. The definition of “neglect” of vulnerable adults and children is amended to include exposure to meth or ingredients of meth when there is intent to manufacture meth. . .

Authority and Discretion of Local Health Officers: When they have probable cause, local health officers (LHOs) in consultation with law enforcement officers are granted the authority to seek a warrant to conduct inspections of property. LHOs are granted the authority to issue emergency, seventy-two-hour orders when they determine the order is necessary to protect the public health, safety, or the environment.

In addition to condemning or demolishing contaminated property, city or county officials may take additional actions such as prohibiting use, occupancy, or removal of property, or order its decontamination. These actions are appealable; however, restrictions on use, occupancy, or removal of property are enforceable while the appeal is pending. City and county personnel, and their cleanup contractors, must comply with the local health officer’s orders.

It is a misdemeanor for anyone to enter property after an order declaring it to be unfit has been issued. Exceptions are provided for governmental officials performing their duties, occupants recovering uncontaminated property, and for others as authorized by a public health officer or superior court.

In addition to decontamination, the owners or authorized contractors are required to submit written work plans for demolition or disposal activities. Property owners are responsible for 1) the costs of any property testing which may be required to demonstrate the presence or absence of hazardous chemical; and 2) the costs of the property’s decontamination, demolition, and disposal expenses, as well as costs incurred by the local health officer. Within 30 days of

issuing an order of unfitness, the local health officer must establish a time period in which decontamination, demolition, and disposal will be completed and fined or legal actions may be taken upon failure to meet the deadline.

Modification to Certification Requirements for Cleanup Workers: The DOH authority to deny, suspend, revoke, or place restrictions on certificates is expanded to include: 1) failing to perform decontamination, demolition, or disposal work using department certified decontamination personnel; 2) failing to perform work that meets the requirements of the local health officers; 3) failing to properly dispose of contaminated property; 4) failing to cooperate with the DOH or the local health officer; or 5) failing the evaluation and inspection of decontamination projects pursuant to section 208 of this act. Additionally certified workers' fraudulent acts or acts of misrepresentation are expanded to include: 1) applying for, or obtaining a certification, recertification, or reinstatement; 2) seeking approval of a work plan; and 3) documenting completion of work to the DOH or local health officer.

Document of Health Cleanup Evaluations: The DOH must modify its rules to include methods for the testing of porous and nonporous surfaces. The DOH must also adopt rules about independent third party sampling to verify satisfactory decontamination of property.

The DOH may annually evaluate a number of the property decontamination projects performed by licensed contractors to determine the adequacy of the decontamination work. If a project fails the evaluation and inspection, the contractor is subject to a civil penalty and license suspension and is prohibited from performing additional work until deficiencies have been corrected.

Department of Ecology: DOE, in consultation with local health jurisdictions and their corresponding city or county governments, will conduct a pilot program to demonstrate application of existing MTCA and other available resources to cleanup methamphetamine contaminated property for public purpose. DOE will report to the Legislature on the effects of the pilot program by January 1, 2007.

Sentencing Modifications: Sentence enhancements for ranked drug offenses are to be served consecutively. Drug Offender Sentence Alternative offenders will serve 12 months or up to the half point of a sentence, whichever is greater. When the court determines that chemical dependency contributed to the felony offense, the offender, not just drug offenders, must receive a chemical dependency screening report prior to sentencing.

Washington State Institute for Public Policy: WSIPP must conduct two studies and report its findings to the Legislature by January 1, 2007. First, WSIPP will study neighboring states and criminal sentencing provisions related to methamphetamine to determine if these provisions provide an incentive for traffickers and manufacturers to relocate to Washington. Second, the WSIPP will study DOSA's impact on recidivism rates for offenders participating in DOSA relative to offenders receiving community treatment or no treatment at all.

PROTECTING PRIVACY OF PERSONAL INFORMATION OF CRIMINAL JUSTICE EMPLOYEES AND VOLUNTEERS

Chapter 355 (SSB 5654)

Effective Date: June 7, 2006

The Final Bill Report summarizes the background and content of this act as follows:

Background: Current statutes provide that, a person or organization that, with intent to harm or intimidate, sells, trades, gives, publishes, distributes, or otherwise releases the residential address, residential telephone number, birth date, or social security number of any law enforcement related, corrections officer related, or court related employee or volunteer without express written commission, may be subject to a civil action for actual damages plus attorneys' fees and costs. These statutes were found overbroad and void for vagueness, in *Sheehan v. Gregoire*, [272 F. Supp. 2d 1135 (W.D. Wa. 2003)] because: (1) they punished communication of truthful lawfully-obtained, publicly available information, not true threats, and (2) it was unclear what speech the state had the power to prescribe.

Summary: The current statutory provisions are completely replaced. No person may knowingly make available on the internet the personal information of a peace officer, corrections person, justice, judge, commissioner, public defender, or prosecutor if the dissemination poses an imminent and serious threat to the public officers or their immediate families. It must be reasonably apparent to the person making the information available that the threat is serious and imminent. It is not a violation if a person working in the county auditor's or county assessor's office publishes this information in good faith and in the ordinary course of business. Personal information includes: home addresses, home telephone numbers, pager numbers, social security numbers, home email addresses, directions to the person's home, and photographs of the person's home or vehicle. Any person who suffers damages as a result of the restricted internet publications may bring a civil action for actual damages, reasonable attorney's fees and costs, and additional damages of up to \$1,000 for each day the personal information was available on the internet.

NEXT MONTH

The June 2006 **LED** will include Part Two of our two-part digest of 2006 enactments by the Washington Legislature, plus an index of legislation addressed in Parts One and Two.

The June 2006 **LED** will also include entries on the following **two U.S. Supreme Court decisions**: 1) *U.S. v. Grubbs*, 126 S.Ct. 1494 (2006), a unanimous March 21, 2006 decision reversing a Ninth Circuit Court of Appeals decision (see **Oct 04 LED:04**) and holding that the Fourth Amendment does not require as to anticipatory search warrants that the triggering condition for the anticipatory warrant be set forth in the search warrant itself, so long as probable cause is established in the supporting affidavit and the triggering condition is described in the affidavit; AND

Georgia v. Randolph, 126 S.Ct. 1515 (2006), a 5-3 March 22, 2006 decision holding that a warrantless search for evidence in a shared dwelling cannot be justified under the Fourth Amendment based on consent of one co-habitant when another co-habitant of the dwelling was present and expressly refused consent prior to the search. Note that the *Randolph* decision apparently will have no effect on consent searches of residences and buildings by Washington officers in light of the restrictive Washington Supreme Court decisions in *State v. Leach*, 113 Wn.2d 735 (1989) (announcing a mutual-consent-of-all-present-cohabitants rule); *State v. Walker*, 136 Wn.2d 767 (1998) **Jan 99 LED:03** (applying the *Leach* rule to exclude evidence only as to the cohabitant who was not asked for consent); and *State v. Morse*, 156 Wn.2d 1 (2005) **Feb 06 LED:02** (establishing the Washington rule as an "independent grounds" rule under article 1, section 7 of the Washington constitution; rejecting "apparent authority" as a consent search rationale under article 1, section 7; and tightening the rule under the

Washington constitution by requiring consent even from a present co-occupant not known by police to be present at the time that they are requesting consent to search). Note also that in State v. Cantrell, 124 Wn.2d 183 (1994) **Sept 04 LED:05**, the Washington Supreme Court held that the mutual-consent rule of Leach does not apply to consent searches of vehicles - - reading the Randolph decision together with the Cantrell decision, we think that in requesting consent to search a vehicle, Washington officers generally would not be required to request consent from two or more persons in the vehicle with co-equal authority to consent to a search (per Cantrell), but that Washington officers would not have a valid consent to search as to the non-consenting person if that person expressly objected to the search.

The June 2006 LED also will likely contain an entry regarding the February 13, 2006 decision of Division One of the Court of Appeals in State v. Fisher, __ Wn. App. __, 130 P.3d 382 (Div. I, 2006), holding: 1) that an officer had probable cause to believe that a person was in possession of drug paraphernalia with intent to use in violation of a Snohomish County ordinance (the PC evidence consisted of the officer's observation of burnt residue in the pipe plus the suspect's failure to offer any explanation for his claim that the pipe in his pocket was not his); and 2) that Washington's version of the Uniform Controlled Substances Act (which does not prohibit mere possession of drug paraphernalia with intent to use) does not preempt local ordinances that do prohibit such possession with intent to use.

INTERNET ACCESS TO COURT RULES & DECISIONS, TO RCW'S, AND TO WAC RULES

The Washington Office of the Administrator for the Courts maintains a web site with appellate court information, including recent court opinions by the Court of Appeals and State Supreme Court. The address is [<http://www.courts.wa.gov/>]. Decisions issued in the preceding 90 days may be accessed by entering search terms, and decisions issued in the preceding 14 days may be more simply accessed through a separate link clearly designated. A website at [<http://legalwa.org/>] includes all Washington Court of Appeals opinions, as well as Washington State Supreme Court opinions from 1939 to the present. The site also includes links to the full text of the RCW, WAC, and many Washington city and county municipal codes (the site is accessible directly at the address above or via a link on the Washington Courts' website). Washington Rules of Court (including rules for appellate courts, superior courts, and courts of limited jurisdiction) are accessible via links on the Courts' website or by going directly to [<http://www.courts.wa.gov/court-rules/>].

Many United States Supreme Court opinions can be accessed at [<http://supct.law.cornell.edu/supct/index.html>]. This web site contains all U.S. Supreme Court opinions issued since 1990 and many significant opinions of the Court issued before 1990. Another website for U.S. Supreme Court opinions is the Court's website at [<http://www.supremecourtus.gov/opinions/opinions.html>]. Decisions of the Ninth Circuit of the U.S. Court of Appeals since January 2000 can be accessed (by date of decision only) by going to the Ninth Circuit home page at [<http://www.ca9.uscourts.gov/>] and clicking on "Opinions." Opinions from other U.S. circuit courts can be accessed by substituting the circuit number for "9" in this address. Federal statutes can be accessed at [<http://www.law.cornell.edu/uscode/>].

Access to relatively current Washington state agency administrative rules (including DOL rules in Title 308 WAC, WSP equipment rules at Title 204 WAC, and State Toxicologist rules at WAC 448-15), as well as all RCW's current through January 2006, is at

[\[http://www.1.leg.wa.gov/coderevisor\]](http://www.1.leg.wa.gov/coderevisor). Information about bills filed since 1997 in the Washington Legislature is at the same address. "Washington State Legislature," "bill info," "house bill information/senate bill information," and use bill numbers to access information. Access to the "Washington State Register" for the most recent proposed WAC amendments is at this address too. In addition, a wide range of state government information can be accessed at [\[http://insideago\]](http://insideago). The address for the Criminal Justice Training Commission's home page is [\[https://fortress.wa.gov/cjtc/www/led/ledpage.html\]](https://fortress.wa.gov/cjtc/www/led/ledpage.html), while the address for the Attorney General's Office home page is [\[http://www.wa/ago\]](http://www.wa/ago).

The Law Enforcement Digest is co-edited by Senior Counsel John Wasberg and Assistant Attorney General Shannon Inglis, both of the Washington Attorney General's Office. Questions and comments regarding the content of the LED should be directed to Mr. Wasberg at (206) 464-6039; Fax (206) 587-4290; E Mail [johnw1@atg.wa.gov]. Questions regarding the distribution list or delivery of the LED should be directed to [ledemail@cjtc.state.wa.us]. LED editorial commentary and analysis of statutes and court decisions express the thinking of the writers and do not necessarily reflect the views of the Office of the Attorney General or the CJTC. The LED is published as a research source only. The LED does not purport to furnish legal advice. LEDs from January 1992 on are available via a link on CJTC's Home Page [<https://fortress.wa.gov/cjtc/www/led/ledpage.html>]