

July 1995

HONOR ROLL

430th Session, Basic Law Enforcement Academy - March 7 through May 25, 1995

President: Officer Darren T. Kelly - Tacoma Police Department
Best Overall: Officer Joseph P. Morris - Mercer Island Police Department
Best Academic: Officer Alan W. Ezekiel - Renton Police Department
Best Firearms: Officer Charles D. Beauchamp - Seattle Police Department

Corrections Officer Academy - Class 212 - May 8 through June 2, 1995

Highest Overall: Officer Steven W. Neal - Washington State Penitentiary
Highest Academic: Officer Steven W. Neal - Washington State Penitentiary
Officer Robert Michael Wood - Spokane County Jail
Highest Practical Test: Officer Steven W. Neal - Washington State Penitentiary
Officer Sandra Jane Peck - Washington C. C. for Women
Officer Steven L. Robins - Twin Rivers Corrections Center
Highest in Mock Scenes: Officer Robert Michael Wood - Spokane County Jail
Officer Todd L. Woolery - Pierce County Jail
Highest Defensive Tactics: Officer Alvin Jeffrey O'Bleness - Airway Heights Corrections Center

Corrections Officer Academy - Class 213 - May 8 through June 2, 1995

Highest Overall: Officer Jeff J. Jenkins - Airway Heights Corrections Center
Highest Academic: Officer Donald L. Carr - Pierce County Jail
Highest Practical Test: Officer Luis J. Dominguez - Airway Heights Corrections Center
Officer Leslie T. Burns - Kirkland City Jail
Officer Gary Hilliard, Jr. - Washington State Penitentiary
Officer Jeff J. Jenkins - Airway Heights Corrections Center
Highest in Mock Scenes: Officer Theresa L. Barzo - Washington State Penitentiary
Officer Brent L. Frahm - Washington Corrections Center
Highest Defensive Tactics: Officer Jeff J. Jenkins - Airway Heights Corrections Center

PUBLIC AGENCY CHALLENGE

The Public Agency Challenge & YMCA Run/Walk drew over 600 participants on May 6, 1995. The Criminal Justice Training Commission came away with two awards.

For the third consecutive year, the Criminal Justice Training Commission placed among the top three in the small agency category. For the second year, we won first place in the team spirit challenge -- this year with a whopping 164% of employees from Thurston County showing up for the race (retirees and family members count, making over 100% possible).

For the first time, the Commission also won first place in the Team Player Challenge. With 16 people showing up, CJTC topped all other agencies with under 100 Thurston County employees.

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**At-Risk/Runaway Youth Act
"The Becca Bill"**

(Chapter 312, Laws of Washington, 1995)

**By: Lee Ann Miller, Senior Counsel, Assistant Attorney General
Nancy Krier, Assistant Attorney General**

The 1995 Washington Legislature enacted a bill governing at-risk youth, runaways, crisis residential centers, mental health and substance abuse treatment for juveniles, truancy, and other issues affecting non-offender youth and their families. Chapter 312, Laws of Washington, 1995 (Engrossed Second Substitute Senate Bill 5439). The act, called "The Becca Bill", becomes effective July 23, 1995 (except for two sections). The act's namesake is a runaway child, Rebecca Hedman, who died while on the streets in Washington state.

The Legislature enacted E2SSB 5439 following reviews in 1994 of the state's current system addressing runaway youth. Those reviews resulted in recommendations for changes in the law by a Special Legislative Juvenile Justice Task Force, and the Governor's Council on Families, Youth and Justice.

The act amends current law and provides new sections to the law. The intent section states that parents should have the right to exercise control of their children. For chronic runaways whose behavior puts them in danger of harming themselves or others, secure facilities must be provided to allow opportunities for assessment, treatment, and to assist parents and protect children. The Legislature intends to give tools to parents, courts, and law enforcement to keep families together and reunite them whenever possible. Courts are to be used as a last resort. (Sec. 1).

Here is a highlight of some of the key areas addressed in the new law. The act's section numbers are noted in parentheses. There are numerous additional provisions related to court procedures and mental health/substance abuse treatment services for children that are not addressed in this article. Readers are cautioned to review the full text of the act for the specific language.

Law Enforcement Duties

The act amends current law to require law enforcement officers to take a runaway child back to his/her parent's home or place of employment as a first alternative. (Sec. 7(1)). If the parents do not wish the child to remain in the home, they may request the officer to place the child

with a relative, responsible adult, or at a licensed youth shelter. The officer releasing a child to a relative, responsible adult, or licensed youth shelter shall inform the child and the person receiving the child of the nature and location of appropriate services available in the community. (Sec. 7(1)).

After attempting to notify the parent, the officer shall transport the child to a crisis residential center (CRC) if the child is afraid of going home, or if it is not practical to transport the child home or to the parent's place of work, or if there is no parent available to accept custody of the child. (Sec. 7(1)).

Officers must make a written report to the CRC within 24 hours after taking a child to a CRC, detailing the reasons the officer took the child into custody. (Sec. 6(3)). If the officer believes the child ran because the child was abused or neglected, the officer must immediately make a report to the Department of Social and Health Services (DSHS). (Sec. 6(4)). If the child runs from the CRC, the CRC administrator is to immediately notify DSHS and law enforcement. (Sec. 21).

The act creates a process for establishing some "secure" CRCs (locked doors or windows, or a secure perimeter). (Secs. 3(12), 60). Currently, CRCs are "semi-secure" meaning they have staffing ratios designed to keep the juvenile at the facility, if possible. Once the new laws are fully implemented, both secure and semi-secure CRCs will be available, although not necessarily in every community. (See further discussion on CRCs below.)

When the secure CRCs are established, law enforcement officers must take a reported runaway child to a secure CRC unless it is full, not available, or not located within a reasonable distance. (Sec. 7(2)). DSHS must inform law enforcement of the location of secure and semi-secure CRCs in their jurisdictions. (Sec. 7(2)). If an officer takes a child into custody because of notification by a juvenile court that the court has found probable cause to believe that a child has violated a court placement order entered under Chapter 13.32A RCW or that the court has issued an order for law enforcement pick-up of the child, the officer may take the child to a juvenile detention facility (existing law) or a secure CRC (Secs. 7(2), 26(3)).

A law enforcement officer is immune from liability if he/she acts in good faith in taking a child into custody, transporting the child to a CRC, or releasing the child to a person at the request of the parent. (Sec. 8(1)).

Multidisciplinary teams (MDTs) are authorized to provide assistance and support to runaway children and their families. MDTs may include law enforcement personnel as members. (Secs. 3(9), 13(5)). (See further discussion on MDT's below.)

The act requires law enforcement officers to compile information on runaways in the Washington state crime information center files. (Sec. 37, 45).

Persons providing shelter to runaway youth are required to notify the youth's parents, law enforcement, or DSHS. (Sec. 34). The notice is mandated within eight hours from the time the person determines the youth is away from home without the parent's permission.

Truancy is discussed in more detail below. The act amends the laws to provide that officers "may" (as opposed to the current "shall") arrest or take into custody a child absent from school without an approved excuse, and shall deliver the child to the parents, school, or as provided by the act, a program designated by the school district. (Sec. 73).

Multidisciplinary Teams

The act creates "multidisciplinary teams" (MDTs) to provide assistance and support to a child who is an at-risk youth or in need of services, and to his/her parents. (Sec. 3(9)). The MDTs

shall include a parent, DSHS case worker, local government representative when authorized, and when appropriate, persons from mental health or substance abuse disciplines. The MDTs may also include other persons such as teachers, law enforcement personnel, probation officers, employers, church persons, tribal members, and so on. DSHS is to request participation by appropriate state agencies. (Sec. 13(2)). A parent must be advised of the creation of an MDT, and may select additional MDT members. (Sec. 13(5)). DSHS is required to designate a DSHS employee as an MDT coordinator in each region. (Sec. 13(3)). MDT members are volunteers, unless the member's employer chooses to pay them to serve on the team or the member is a state employee. (Sec. 3(9)).

MDTs are convened by the CRC or DSHS. (Secs. 5, 13, 16(1), 62(1)). A CRC administrator may convene an MDT at the request of a child or parent, and must convene an MDT when the administrator reasonably believes the child is in need of services and the parent is unavailable or unwilling to continue efforts to maintain the family structure. (Sec. 13(1)). DSHS may convene a team to assist families in assessment, evaluation, and referral to services. (Secs. 5, 16(1)). Unless the MDT was convened at the request of a child or parent or unless a child in need of services (CHINS) petition has been filed in court, the parent may disband the team within 24 hours after receiving notice of its formation. (Sec. 13(1)). If a CHINS petition is filed, the parent may not disband the MDT until a court hearing is held, and the court may then allow the team to continue if an out-of-home placement is ordered in the case. Upon the filing of an at-risk youth petition or a dependency petition, the team shall cease to exist unless the parent requests the MDT continue or the child was ordered into out-of-home placement in a CHINS proceeding. (Sec. 13(1)).

MDTs are authorized to evaluate the juvenile and family members (if appropriate and agreed to by the parent), develop a plan of services and assist the family in obtaining those services, make referrals to chemical dependency and mental health professionals, recommend no further intervention, or work with the parents (with their consent) to reconcile the family and child. (Sec. 13(6)). The service plan shall be aimed at family reconciliation, reunification, or avoidance of out-of-home placement of the child. (Sec. 16(1)).

At its first meeting, the MDT is to select a coordinator, and the parent must agree with that choice. (Sec. 14(2)). The coordinator may assist in filing petitions in court, but the team shall not have standing as a party in any legal action related to such petitions. (Sec. 14(3)).

If a CRC administrator cannot locate a parent, he/she may ask the MDT to assist. (Sec. 14(4)).

Crisis Residential Centers (CRCs)

Crisis residential centers are facilities that provide short term care and services to runaway children and their families. The act changes and expands the duties of CRC administrators and specifies a process for establishment of secure CRCs. Under the act, DSHS will be required, within available funds, to establish regional CRCs with secure facilities. The facilities are to be established by contracts with private vendors. (Sec. 60(2)). Semi-secure CRCs will continue to be available.

The act defines "secure facility" to mean a CRC, or portion thereof, that has locking doors, locking windows, or a secured perimeter, designed or operated to prevent a child from leaving the premises without the permission of facility staff. (Sec. 3(12)). Secure CRCs must also maintain a minimum staffing ratio that averages no more than eight children for every three adult staff members. (Sec. 60(5)). Although co-location of secure CRCs with jails or juvenile detention facilities is generally prohibited, the act does provide a process by which the Secretary of DSHS,

following consultation with the appropriate county legislative authority, can authorize co-location. (Sec. 60(6)).

No child may be placed in a secure CRC except as provided in the act. (Sec. 6 (7)). Law enforcement officers are required take runaway children to a secure CRC under circumstances specified in the act. (Sec. 7). (See above discussion regarding law enforcement duties.) A child admitted to a secure CRC must remain at least 24 hours, but not more than five consecutive days, after admission. (Sec. 12(1)). However, a child's parent(s) may remove the child from a secure CRC at any time during the five day period unless CRC staff have reasonable cause to believe that the child is absent from home due to abuse or neglect or if allegations of abuse or neglect have been made against the parents. Additionally, DSHS may remove a child from a secure CRC whenever a dependency petition is filed under Chapter 13.34 RCW. (Sec. 12(5)).

The CRC administrator is required to determine within 24 hours after a child's admission to a secure CRC whether the child can be safely admitted to a semi-secure CRC and, if so, the administrator may transfer the child to the semi-secure facility. The administrator's determination must be based on factors specified in the act. (Sec. 12(2)(a)). The administrator may transfer a child to a CRC in the area where the child's parents reside or where the child's lawfully prescribed residence is. (Sec. 12(2)(c)). The administrator may also transfer a child from a semi-secure CRC to a secure facility whenever the administrator determines that a child is likely to leave the semi-secure facility and not return. (Sec. 12(2)(d)). Regardless of transfers between secure and semi-secure facilities, total time of placement is not to exceed five days. (Sec. 63(1)). A CRC administrator, or his/her designee, acting in good faith in carrying out the requirements of Section 12 of the act are immune from criminal or civil liability for such actions. (Sec. 12(8)).

Law enforcement officers may place runaway children in semi-secure CRCs if a secure facility is full, not available, or not located within a reasonable distance. (Sec. 7(1)(b)). Upon approval of a child in need of services (CHINS) petition, a Juvenile Court may place a child in a semi-secure CRC as a temporary out-of-home placement if no other suitable placement is available, there is space available in the semi-secure CRC, and no child will be denied access for a five day placement due to the temporary placement. (Sec. 44).

If a child runs from a CRC, the administrator must notify the parents and the appropriate law enforcement agency immediately. (Sec. 21). As under current law, if a child runs from a CRC, DSHS may place the child in a juvenile detention facility for a maximum of 48 hours if the CRC administrator determines that the child will not stay at the CRC. (Sec. 63(2)).

If CRC staff have reasonable grounds to believe that a child is absent from the home due to abuse or neglect, a report must be made immediately to DSHS. (Sec. 6(4)). CRC staff may refer any child who, as a result of mental health problems or drug/alcohol intoxication, is a serious danger to self or others, or otherwise in immediate need of medical evaluation and possible care, to a mental health specialist or a chemical dependency specialist. (Sec. 62(3)). A CRC administrator may convene an MDT at the request of a child placed at the CRC or the child's parent and, under specified circumstances, must convene an MDT. (Sec. 13(1)). (See above discussion of MDTs.)

Truancy

The act creates "community truancy boards" to recommend methods for improving school attendance. (Sec. 66). These local boards consist of members of the community in which the child attends school. School districts may also create these boards. The act amends current truancy laws

to enable a school to, among other options in current law, refer a child to a community truancy board.

Upon a child's fifth unexcused absence in a month, or upon a tenth unexcused absence in a year, the school district shall file a truancy petition in juvenile court. (Sec. 68). The petition can allege violations of truancy laws by the parent, child, or both. (Sec. 68). If the school district fails to file such a petition, the parent may file the petition. (Sec. 68). No court filing fees are required for these petitions. (Sec. 70).

The act sets forth the contents of the petition. (Sec. 69). Among other things, the court may schedule a hearing and require attendance of the child and parents at the hearing. (Sec. 69(4)). The court shall grant the petition and enter an order assuming jurisdiction for the remainder of the school year if the allegations in the petition are established by a preponderance of the evidence. (Sec. 69(6)).

Superior court commissioners, family law commissioners, and juvenile court judges have jurisdiction to hear these truancy petitions. (Sec. 71). In addition to assessing fines, placing children into detention, and other current options, the act authorizes courts to also order the parent to provide community service at the child's school instead of imposing a fine. (Sec. 74). Half of the fines (as opposed to the current 100 percent of the fines) shall go to the school district, and fifty percent shall be given to the county. (Sec. 75).

The act requires school districts to review their policies regarding access and exits by students from secondary school grounds during school hours, and develop a policy restricting such comings and goings by students. (Sec. 82). School districts are also required to document their actions to comply with the truancy laws (regarding excused and unexcused absences, steps taken by the school district, the number of truancy petitions filed, court dispositions, etc.), and to report to the Office of the Superintendent of Public Instruction (OSPI). (Sec. 72). OSPI is to report the information to the Legislature. (Sec. 72(4)).

School district officials, in addition to sheriffs, marshals, police, and other officers, are authorized to make arrests and take into custody those juveniles who are absent from school without an approved excuse. (Sec. 73). (The reference to "attendance officer" is deleted.) These persons are to deliver the child to the parent, school, or program designated by the school. (Sec. 73).

Several current provisions governing trancies which conflict with the new laws are repealed. (Sec. 86).

1995 WASHINGTON LEGISLATIVE ENACTMENTS -- PART II

LED EDITOR'S INTRODUCTORY NOTE: This is the second part of a several-part digest of 1995 State legislative enactments of interest to Washington law enforcement officers and/or their agencies. We will try throughout our updates where significant to note any current RCW sections affected by the legislation. Where new sections are created by legislation, the State Code Reviser must assign an appropriate section number. That process should be completed by the Code Reviser by early fall of 1995.

Beware: As always with this publication, any opinions, express or implied, are the personal views of the LED Editor alone. A formal Attorney General Opinion (AGO) may be obtained only by means of a formal written request to Attorney General Christine Gregoire by one of the following -- a legislator, an elected prosecutor, or one of certain state government officials.

CJTC Computer Bulletin Board: We have put into the WSCJTC Computer Bulletin Board under a separate file -- "Leg95" -- all 1995 legislation (including that which we covered in last month's LED and that which we will cover in future LED's) which we believe is of significant interest to law enforcement agencies and their officers. Instructions on use of the Bulletin Board can be found at page 50 of the WSCJTC's 1994-1995 Training Catalog (reprinted as an appendix to the January 1995 LED). Readers with technical questions about the Bulletin Board may contact Ian Wallace at (206) 439-3740, ext. 218.

DEFACEMENT OF STATE MONUMENTS

CHAPTER 66 (HB 1433)

Effective Date: July 23, 1995

Adds a section to chapter 9A.48 RCW making it a misdemeanor to "knowingly deface" a "state monument or memorial on the state capitol campus or other state property". In the appropriate circumstances, this should allow the state to charge skateboarders on the capitol campus, among others.

EXPELLING PUBLIC K-12 STUDENTS WHO BRING GUNS ONTO CAMPUS

CHAPTER 87 (SSB 5440)

Effective Date: July 23, 1995

Adds a new section to chapter 28A.600 RCW to require expulsion for one year of any public school student bringing a firearm onto K-12 school premises; individual school administrators have the authority to modify the expulsion on a case-by-case basis.

THEFT OF TELECOMMUNICATION VIDEO SERVICES

CHAPTER 92 (ESSB 5820)

Effective Date: July 23, 1995

Adds definitions of "subscription television service", "telecommunication device", and "telecommunication service" to RCW 9A.56.010; renames RCW 9A.56.220 crime of "theft of cable television services" to "theft of subscription television services" and revises elements of the crime; renames RCW 9A.56.230 crime of "unlawful sale of cable television services"

to "unlawful sale of subscription services" and revises elements of crime; and amends RCW 9A.56.250 to revise civil remedies in that section with primarily housekeeping changes.

Also adds new sections to chapter 9A.56 to establish newly defined crimes of "theft of telecommunication services", "unlawful manufacture of a telecommunication device", and "unlawful sale of a telecommunication device", as well as providing civil remedies for this misconduct.

Also amends the "criminal profiteering" statute at RCW 9A.82.010 to include several of the above-noted crimes as acts of "criminal profiteering".

"HARD TIME FOR ARMED CRIME ACT"

CHAPTER 129 (INITIATIVE 159)

Effective Date: July 23, 1995

This enactment began as an Initiative. Briefly summarized, it: (1) amends sentencing laws to increase the certainty of greater punishment and more structure in plea bargaining for persons who commit crimes while armed, and (2) amends several substantive criminal laws which relate to theft or possession of stolen firearms, or which relate to unlawful possession of firearms by those who are ineligible to possess them. We will not address the sentencing law changes in the LED. The substantive criminal law changes by Initiative 159 include the following.

The act amends: RCW 9A.36.045 (housekeeping change inserting the RCW 9.41.010 definition of "firearm" in the "first degree reckless endangerment" law; also makes "first degree reckless endangerment" a class B felony); RCW 9A.52.020 (**significant change substituting the term, "building", for the term, "dwelling", in the "first degree burglary" statute**); RCW 9A.56.300 (among other things, amends "theft of a firearm" statute by inserting "firearm" definition of RCW 9.41.010, providing that each firearm taken in a theft is a separate offense, and deleting provisions making possession of a stolen firearm "theft of a firearm"). Also amends RCW 9A.56.030 (and 9A.56.040) with housekeeping changes clarifying that "theft in the first degree" (and theft in the second degree) other than a firearm" do not include "theft of a firearm".

Adds a new section to chapter 9A.56 RCW establishing the crime of "possessing a stolen firearm" to address one who "possesses, carries, delivers, sells, or is in control of a stolen firearm"; this new crime's provisions generally mirror those of "theft of a firearm" (see preceding paragraph). Also amends RCW 9A.56.150 and 160 to make clear that "possessing stolen property in the first degree (and second degree) other than a firearm" do not address possession of a stolen firearm.

Also amends RCW 9.41.040 of the firearms statute, establishing two degrees of "unlawful possession of a firearm" and making numerous substantive and housekeeping changes in 040. The significant changes in 040 of the firearms statute are as follows.

"Possession of a firearm in the first degree" (a class B felony) is the possession or control of any firearm:

...after having previously been convicted in this state or elsewhere of any serious offense as defined in this chapter, residential burglary, reckless endangerment in the first degree, any felony violation of the uniform controlled substances act, chapter 69.50 RCW, classified as a class A or class B felony, or with a maximum sentence of at least ten years, or both, or equivalent statutes of another jurisdiction, except as otherwise provided in subsection (3) or (4) of this section;...

"Possession of a firearm in the second degree" (a class C felony) is the possession or control of any firearm:

...(i) After having previously been convicted of any remaining felony violation of the uniform controlled substances act, chapter 69.50 RCW, or equivalent statutes of another jurisdiction not specifically listed as prohibiting firearm possession under (a) of this subsection, any remaining felony in which a firearm was used or displayed and the felony is not specifically listed as prohibiting firearm possession under (a) of this subsection, any domestic violence offense enumerated in RCW 10.99.020(2) and any harassment offense enumerated in RCW 9A.46.060, except as otherwise provided in subsection (3) or (4) of this section;

(ii) After having previously been convicted on three occasions within five years of driving a motor vehicle or operating a vessel while under the influence of intoxicating liquor or any drug, unless his or her right to possess a firearm has been restored as provided in RCW 9.41.047;

(iii) After having previously been involuntarily committed for mental health treatment under RCW 71.05.320, 71.34.090, chapter 10.77 RCW, or equivalent statutes of another jurisdiction, unless his or her right to possess a firearm has been restored as provided in RCW 9.41.047;

(iv) If the person is under eighteen years of age, except as provided in RCW 9.41.042.

The existing subsection (3) of 040 is not changed by Initiative 159. Therefore, "certificates of rehabilitation" by a "court of record" per RCW 9.41.047 (i.e., a superior court) are still generally required in order to restore a person's firearms rights (see **discussion of restoration of rights in July '94 LED at 15-19; see also discussion in the June '95 LED at page 7 re the Herron Court decision**). Note, however, that Initiative 159 adds to subsection (4) of 040 the following language related to restoration of rights:

Notwithstanding any other provisions of this section, if a person is prohibited from possession of a firearm under subsection (1) of this section and has not previously been convicted of a sex offense prohibiting firearm ownership under subsection (1) of this section and/or any felony defined under any law as a class A felony or with a maximum sentence of at least twenty years, or both, the individual may petition a court of record to have his or her right to possess a firearm restored:

(a) Under RCW 9.41.047; and/or

(b) After five or more consecutive years in the community without being convicted or currently charged with any felony, gross misdemeanor, or misdemeanor crimes, if the individual has no prior felony convictions that prohibit the possession of a firearm counted as part of the offender score under RCW 9.94A.360.

This new restoration of rights provision does not clarify the standard for issuance of a "certificate of rehabilitation" under subsection (3) of 040.

Adds the following new subsections to 040:

(6) Nothing in ... (this act) shall ever be construed or interpreted as preventing an offender from being charged and subsequently convicted for the separate felony crimes of theft of a firearm or possession of a stolen firearm, or both, in addition to being charged and subsequently convicted under this section for unlawful possession of a firearm in the first or second degree. Notwithstanding any other law, if the offender is convicted under this section for unlawful possession of a firearm in the first or second degree and for the felony crimes of theft of a firearm or possession of a stolen firearm, or both, then the offender shall serve consecutive sentences for each of the felony crimes of conviction listed in this subsection.

(7) Each firearm unlawfully possessed under this section shall be a separate offense.

Initiative 159 also amends RCW 10.95.020 of the death penalty statute to allow the charging of certain gang-related murders and drive-by murders as "aggravated first-degree murder". Also adds a new section to the RCW's providing that law enforcement personnel, prosecutors, and sentencing judges may, but need not, advise offenders of some of the provisions of Initiative 159.

PAWNBROKER LOAN PERIOD RESTRICTIONS

CHAPTER 133 (HB 1012)

Effective Date: July 23, 1995

Amends RCW 19.60.010 of the pawnbroker law, striking the following language from subsection (9)--"Term of the loan as defined in this chapter shall be set for a period of thirty days to include the date of the loan" and inserting in its stead the following new language:

"Loan period" means the period of time from the date the loan is made until the date the loan is paid off, the loan is in default, or the loan is refinanced and new loan documents are issued, including all grace or extension periods.

Also amends RCW 19.60.060(3) to make clear that fees allowed under subsection (2) of 060 may be charged only once for each loan period. And makes several changes in RCW 19.60.061 relating to loan terms, documentation thereof, and rewriting of loans covered by the statute. The 1995 Legislature rejected efforts to amend the pawnbroker law to comprehensively preempt local legislation re pawnbrokers.

LURING

CHAPTER 156 (SB 5039)

Effective Date: July 23, 1995

The June '95 LED entry at 05 failed to note that the coverage of RCW 9A.40.090 was broadened to cover "areas obscured from or inaccessible to the public . . ." Previously, only "structures" of this nature were covered.

SEXUALLY VIOLENT PREDATORS

CHAPTER 216 (SSSB 5508)

Effective Date: July 23, 1995

Amends numerous sections in chapter 71.09 RCW, as well as adding new sections to this RCW chapter relating to commitment of sexually violent predators. Included in the changes are provisions for "conditional release to a less restrictive alternative" for predators under some circumstances. Also amends RCW 9A.76.120 to provide that it is "escape in the second degree" if a predator is under an order of conditional release to a less restrictive alternative (generally, a halfway house setting), and "leaves the state of Washington without prior court authorization."

TOW AND IMPOUND -- CITATIONS FOR ABANDONED VEHICLES

CHAPTER 219 (SB 5445)

Effective Date: July 23, 1995

Amends RCW 46.20.031 to make clear that a driver's license will not be issued to persons who have failed to appear, respond, or comply regarding notices of infraction regarding RCW 46.55.105 (the latter statute provides for issuance of infractions for abandoning vehicles and establishes responsibility for impound costs for such

vehicles). Also revises subsection (4) of RCW 46.63.030 to provide as follows:

(4) In the case of failure to redeem an abandoned vehicle under RCW 46.55.120, upon receiving a complaint by a registered tow truck operator that has incurred costs in removing, storing, and disposing of an abandoned vehicle, an officer of the law enforcement agency responsible for directing the removal of the vehicle shall send a notice of infraction by certified mail to the last known address of the registered owner of the vehicle. The officer shall append to the notice of infraction, on a form prescribed by the department of licensing, a notice indicating the amount of costs incurred as a result of removing, storing, and disposing of the abandoned vehicle, less any amount realized at auction, and a statement that monetary penalties for the infraction will not be considered as having been paid until the monetary penalty payable under this chapter has been paid and the court is satisfied that the person has made restitution in the amount of the deficiency remaining after disposal of the vehicle.

DOMESTIC VIOLENCE

CHAPTER 246 (ESSB 5219)

Effective Date: July 23, 1995

Overhauls many parts of the domestic violence protection laws. Among the changes are the following (we may provide further details in a future LED as the requirements of the 1995 act become better understood):

Retrieving "Essential Personal Effects"

Amends the Domestic Violence Protection Act" (DVPA) at RCW 26.50.060 to give the courts power to "order possession and use of essential personal effects." RCW 26.50.010 is amended to define "essential personal effects" as follows:

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

RCW 26.50.080 is amended to require that a peace officer "assist in placing the (DVPA) petitioner in possession of all items listed in the order..."

Serving DVPA Orders

Amends RCW 26.50.115 by deleting the second sentence of subsection (2) and inserting the following:

...If the law enforcement officer determines that the respondent did not or probably did not know about the protection order and the officer is provided a current copy of the order, the officer shall serve the order on the respondent, if the respondent is present. If the respondent is not present, the officer shall make reasonable efforts to serve a copy of the order on the respondent. If the officer serves the respondent with the petitioner's copy of the order, the officer shall give the petitioner a receipt indicating that petitioner's copy has been served on the respondent.

(3) Presentation of an unexpired, certified copy of a protection order is sufficient for a law enforcement officer to enforce the terms of the order regardless of the presence of the order in the law enforcement computer-based criminal intelligence information system.

Mandatory Arrest And Mandatory Reports

Amends RCW 10.31.100(1) to establish that arrest is mandatory for knowing violation of restraining orders issued under RCW 26.10.115 (dissolution actions) and 26.10.115 (child custody actions) as well as for types of orders already addressed in existing language in this subsection. Also changes mandatory arrest rule for non-order DV situations, mandating arrest on probable cause that one of the categorical assault situations has occurred in which a person "sixteen years or older and within the preceding four hours has assaulted a family or household member as defined in RCW 10.99.020..." (revised language underlined)

This revised mandatory arrest standard requires reference to the following statutory definitions:

"Family or household members" (RCW 10.99.020(1)) means "spouses, former spouses, persons who have a child in common regardless of whether they have been married or lived together at any time, adult persons related by blood or marriage, adult persons who are presently residing together or who have resided together in the past, persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship, persons sixteen years of age or older with whom a respondent sixteen years of age or older has or has had a dating relationship, and persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren." (Emphasis added.)

"Dating relationship" (RCW 26.50.010(3)) means "a social relationship of a romantic nature. Factors that the court may consider in making this determination include: (a) The length of time the relationship has existed; (b) the nature of the relationship; and (c) the frequency of interaction between the parties."

The mandatory reporting requirements of RCW 10.99.030 incorporate the same expanded definitions set forth immediately above, and, as before, are much broader than the mandatory arrest statute, in terms of the types of criminal activity addressed.

One significant expansion of the mandatory arrest and mandatory report requirements of RCW 10.31.100 and 10.99.030, respectively, is in the situation of 16 and 17 year-olds in dating relationships. If a person 16 years of age or older commits against a person 16 years old or older one of the types of assault that otherwise trigger mandatory arrest under RCW 10.31.100(2), and the two persons are in a "dating relationship", then, even if they do not and have not ever resided together, arrest is mandatory under RCW 10.31.100. And reports are mandatory in this hypothetical dating situation for any of the crime situations addressed in chapter 10.99 RCW. [Note, however, that sibling assaults involving 16- and 17-year-olds are not made DV under the 1995 amendments, because there is no "dating" relationship in the case of such relationships. On the other hand, parent-child, child-parent, assaults where the child is 16 or older will be DV for purposes of mandatory arrest and mandatory reports.]

Mandatory Basic Police Training And Discretionary Training For Police And Prosecutors

Amends RCW 10.99.030 to require that the Criminal Justice Training Commission (CJTC) implement by January 1, 1997 20 hours of basic law enforcement training on the response to domestic violence. The CJTC is also required to develop and update annually, and make available for discretionary use by law enforcement agencies, an in-service training program on domestic violence response and dv laws. Manuals and training for prosecutors are also to be developed by the CJTC. All training programs and manuals are to be developed in conjunction with interested groups as identified in the legislation.

Misdemeanor Status For Violating Restraining Orders

Amends chapter 26.26 RCW (Uniform Parentage Act) by adding a new section making knowing violation of a restraining order issued in a paternity action a misdemeanor. This new crime mirrors the crime at RCW 26.09.300 (violating a dissolution action restraining order).

SEX OFFENDER REGISTRATION FOR THE CRIMINALLY INSANE, OTHERS

CHAPTER 268 (SSB 5326)

Effective Date: July 23, 1995

Amends RCW 9A.44.130 and 140 to establish that persons found not guilty of committing any sex offense by reason of insanity must register as sex offenders, as must sex offenders under federal jurisdiction under certain circumstances, and as must persons with sex offenses in foreign countries who move to Washington. Also amends subsection (4) of RCW 9A.44.130 to clarify that "[i]f any person required to register pursuant to this section moves out of Washington state, the person must also send written notice within ten days of moving to the new state or a foreign country to the county sheriff with whom the person last registered in Washington state..." and amends subsection (7) to clarify that a person "who moves without notifying the county sheriff" is guilty of either a class C felony or a gross misdemeanor depending on the circumstances. Also adds a subsection to chapter 9A.44 RCW providing:

When a sex offender registers with the county sheriff pursuant to RCW 9A.44.130, the county sheriff shall make reasonable attempts to verify that the sex offender is residing at the registered address. Reasonable attempts at verifying an address shall include at a minimum sending certified mail, with return receipt requested, to the sex offender at the registered address, and if the return receipt is not signed by the sex offender, talking in person with the residents living at the address. The sheriff shall make reasonable attempts to locate any sex offender who cannot be located at the registered address.

PRIVATE SECURITY GUARDS AND PRIVATE INVESTIGATORS

CHAPTER 277 (ESHB 1679)

Effective Date: May 9, 1995

INTRODUCTORY NOTE: For a comprehensive review of the pre-1995 laws regulating professional private security guards and professional private investigators, see our two-part article in the May and June 1993 LED's.

Chapter 277 makes numerous changes in chapter 18.170 RCW (relating to professional of security guards) and in chapter 18.165 RCW (relating to professional licensing of "private investigators", formerly known as "private detectives").

The following are changes that are common to both the security guard statute and the private investigator statute.. Amendments to RCW 18.170.250 and 18.165.240 similarly delete provisions that fines, fees, and penalties for criminal violation go to DOL; now, these court-ordered penalties will be distributed in the same manner as such penalties for other criminal convictions. . . New sections in each chapter establish that a licensee and certain others are prohibited (on pain of disciplinary sanctions by DOL) from "display(ing) a firearm while soliciting a client..New subsections in RCW 18.170.100 and 18.165.050 preclude DOL from issuing a license if a company

name portrays it as or in association with a public law enforcement agency, or "includes the word 'police'..."

New subsections in RCW 18.170.110 and 18.165.130 require that companies inform local law enforcement (on pain of disciplinary sanctions by DOL) within 10 days of the discharge of a firearm by an armed licensee anywhere other than on a firing range...New subsections in RCW 18.170.120 and 18.165.140 establish that a person from another state on temporary assignment in Washington, while authorized to act under the limits of that section, "may not solicit business in this state or represent himself or herself as licensed in this state"...New subsections in RCW 18.170.130 and 18.165.070 require that DOL solicit comments from local law enforcement executives in screening applicants for private security guard and private investigator licenses. . . . Amendments in each chapter will allow for a more complete background check on both unarmed and armed licensee applicants.

The following change is made only in the security guard statute. A new subsection is added to RCW 18.170.160 making it a gross misdemeanor "for any person who performs the functions and duties of a private security guard to use any name that includes the word 'police' or 'law enforcement' or that portrays the individual or a business as a public law enforcement agency." NOTE: A similar, though not identical, gross misdemeanor provision already exists in the private investigator chapter at RCW 18.165.150(6).

The following change is made only in the private investigator statute. New subsections are added to RCW 18.165.160 subjecting licensees to DOL disciplinary sanctions for:

- (21) Assisting a client to locate, trace, or contact a person when the investigator knows that the client is prohibited by any court order from harassing or contacting the person whom the investigator is being asked to locate, trace, or contact, as it pertains to domestic violence, stalking, or minor children;
- (22) Failure to maintain bond or insurance;
- (23) Failure to have a qualifying principal in place.

INSURANCE FRAUD AND OTHER DISHONEST BEHAVIOR

CHAPTER 285 (ESSHB 1557)

Effective Date: July 1, 1995

Creates a new chapter in Title 48 RCW to address the activity of "trafficking in insurance claims" (including the activity known as "capping"): (1) defining the prohibited activity and certain terms; (2) providing for criminal penalties, as well as injunctive remedies and disciplinary sanctions; and (3) establishing duties for insurers and law enforcement personnel to address insurance fraud.

Amends various provisions in Title 48, as well as overhauling RCW 2.48.180 (re unlawful practice of law) and amending RCW 9.12.010 (misdemeanor re bringing of false lawsuits).

Creates a new section in chapter 9A.68 establishing a new crime of "commercial bribery" to address breaches of trust by "trusted persons", which crime is fairly broadly defined, and includes but is not limited to certain acts of insurance fraud by insiders. Also, amends RCW 9A.72.010 and 030 to add language re oaths.

Perhaps of greatest significance to law enforcement officers is the addition of a new section to chapter 9A.76 RCW reading as follows:

A person who knowingly makes a false or misleading material statement to a public servant is

guilty of a gross misdemeanor. "Material statement" means a written or oral statement reasonably likely to be relied upon by a public servant in the discharge of his or her official powers or duties.

Deletes the following subsection from the "obstructing" statute at RCW 9A.76.020 (replaced by the more inclusive provision set forth in the preceding paragraph):

~~[A person is guilty of obstructing a law enforcement officer if the person] (1) willfully makes a false or misleading statement to a law enforcement officer who has detained the person during the course of a lawful investigation or lawful arrest.~~

Subsections (2) and (3) of the obstructing statute remain in RCW 9A.76.020 but are renumbered.

Also amends various provisions in chapter 48.50 RCW, formerly known as the "Arson Fraud Reporting Immunity Act" but now known as the "Insurance Fraud Reporting Immunity Act" and broadened accordingly. Amends several provisions of chapter 48.80 RCW (re health care false claims) and RCW 18.130.190 (re unlicensed practice of profession or business), and incorporates the crimes addressed in this 1995 act in the definition of "criminal profiteering" in chapter 9A.82 RCW.

FAMILY PRESERVATION SERVICES (& MANDATORY REPORTS OF CHILD ABUSE)

CHAPTER 311 (ESSB 5885)

Effective Date: July 23, 1995

Amends RCW 26.44.030 to clarify that individual "law enforcement officer(s)" and "county coroner(s) and medical examiner(s)" are among the persons who are required to report to either a law enforcement agency or DSHS when they have reasonable cause to believe that children, adult dependents, or developmentally disabled persons have been abused or neglected. Also adds numerous sections and amends numerous sections in RCW Titles 74, 74C, and 13 with apparent legislative intent, among other things: (a) to make it easier to show "abandonment" of a child in some circumstances; (b) to allow DSHS to go to court if necessary to get records pertinent to its family services responsibilities; and (c) to require DSHS, if funding is provided in the biennial budget, to increase its provision of "intensive family preservation services".

RUNAWAYS AND OTHER NON-OFFENDER, AT-RISK YOUTH ("BECCA" BILL)

CHAPTER 312 (ESSB 5439)

Effective Date: July 23, 1995 (with a few exceptions not critical to law enforcement interests)

Assistant Attorney General, Nancy Krier, and Senior Counsel, Lee Ann Miller, of the AG's DSHS Division, have provided a law enforcement-focused summary of this legislation for this month's LED. Their summary is set forth above at pages 2-6. All other entries in this LED were prepared by the LED Editor, Assistant Attorney General, John Wasberg.

DEADLY WEAPONS AND DRUGS IN JAILS

CHAPTER 314 (HB 1117)

Effective Date: July 23, 1995

Amends RCW 9.94.040 by inserting a subsection reading as follows:

Every person confined in a county or local correctional institution who, without legal authorization, while in the institution or while being conveyed to or from the institution, or while under the custody or supervision of institution officials, officers, or employees, or while on any premises subject to the control of the institution, knowingly possesses or has under his or her control a **deadly weapon**, as defined in RCW 9A.04.110, is guilty of a class B felony.

Amends RCW 9.94.041 establishing a parallel provision to 040 above for confinees' possession of "**any narcotic drug or controlled substance**", as defined in chapter 69.50 RCW and making this new crime a class C felony.

Amends RCW 9.94.049 to define "correctional institution" to mean:

...any place designated by law for the keeping of persons held in custody under process of law, or under lawful arrest, including state prisons, county and local jails, and other facilities operated by the department of corrections or local governmental units primarily for the purposes of punishment, correction, or rehabilitation following conviction of a criminal offense.

CIVIL IMMUNITY FOR SCHOOLS RELEASING INFORMATION

CHAPTER 324 (SHB 1401)

Effective Date: July 23, 1995

Among other things, amends RCW 28A.225.330 by adding a subsection providing:

Any school district or district employee who releases the information in compliance with federal and state law is immune from civil liability for damages unless it is shown that the school district or district employee acted with gross negligence or in bad faith.

IMPLIED CONSENT AND DUI

CHAPTER 332 (SSB 5141)

Effective Date: September 1, 1995 (w/ a few exceptions not of critical interest to law enforcement)

In the 1994 Omnibus Drunk Driving Act, the Legislature made many changes in the laws relating to the processing of implied consent and DUI cases. Among other things, this 1995 legislation: (1) requires revision of implied consent warnings; (2) attempts to make more uniform and to streamline the procedural mechanisms for these types of cases; (3) addresses a few loopholes and other areas in RCW 46.20.308 needing correction; (4) revises provisions related to DOL revocation, etc. in relation to implied consent; (5) revises sentencing provisions for DUI; and (6) revises DUI forfeiture provisions slightly (we will not address items (4), (5) and (6) in this LED update).

Revised Implied Consent Warning

Revisions to RCW 46.20.308 will require the implied consent warnings to read along the following lines (check

prosecutor/legal advisor directives for exact wording).

FURTHER, YOU ARE NOW BEING ASKED TO SUBMIT TO A TEST OF YOUR BREATH WHICH CONSISTS OF TWO SEPARATE SAMPLES OF YOUR BREATH, TAKEN INDEPENDENTLY, TO DETERMINE ALCOHOL CONCENTRATION. YOU ARE NOW ADVISED THAT YOU HAVE THE RIGHT TO REFUSE THIS BREATH TEST; THAT IF YOU REFUSE, YOUR LICENSE, PERMIT, OR PRIVILEGE TO DRIVE WILL BE REVOKED OR DENIED BY THE DEPARTMENT OF LICENSING; AND THAT YOU HAVE THE RIGHT TO ADDITIONAL TESTS ADMINISTERED BY A QUALIFIED PERSON OF YOUR OWN CHOOSING AND THAT YOUR REFUSAL TO TAKE THE TEST MAY BE USED IN A CRIMINAL TRIAL; AND

YOU ARE FURTHER ADVISED THAT YOUR LICENSE, PERMIT, OR PRIVILEGE TO DRIVE WILL BE SUSPENDED, REVOKED, DENIED OR PLACED IN PROBATIONARY STATUS IF THE TEST IS ADMINISTERED AND THE TEST INDICATES THE ALCOHOL CONCENTRATION OF YOUR BREATH IS 0.10 OR MORE, IN THE CASE OF A PERSON OVER AGE TWENTY-ONE, OR 0.02 OR MORE IF YOU ARE UNDER AGE TWENTY-ONE.

Revised Sworn Report And Review Procedures

The 1994 act resulted in four different categorical situations in which a person's driver's license could be administratively revoked following an alcohol-involved traffic stop: (1) the person who is arrested on probable cause for DUI and refuses a breath test; (2) the person who is arrested on probable cause for DUI, takes the BAC test, and registers a .10 or higher; (3) the person under age 21 who is reasonably believed (PC) to have alcohol in his or her system, is offered a BAC test, and refuses it; and (4) the person under age 21 who is reasonably believed (PC) to have alcohol in his or her system, takes the BAC test, and registers a .02 or above. Under the 1994 act, the process followed by the officer and by DOL varied from one or these four situations to the other. The process under the 1995 act is to have the officer follow a similar and more streamlined process in each of these four circumstances.

In each of the four instances described in the preceding paragraph, the administrative revocation procedure following the triggering event is as follows: (1) officer serves notice of revocation, etc. on person of DOL's intent, etc. and of person's right to a hearing; (2) officer marks driver's license and notifies person of temporary nature of marked license, all per DOL directives; (3) officer immediately notifies DOL of arrest and sends sworn report to DOL **"within 72 hours, except as delayed as the result of a blood test"**; (3) DOL places license in probationary status, and if an appeal is filed within 30 days of the officer's notification of rights, DOL schedules a hearing under time lines specified in the statute. BEWARE of the 72-hour requirement for sending sworn reports to DOL.

The 1995 amendments authorize DOL, at its discretion, to hold hearings by telephone in lieu of holding them in the county of arrest. The amendments declare that the sworn report of the officer shall be prima facie evidence of the necessary elements under the statute, and that the sworn report "and any other evidence accompanying the report shall be admissible without further evidentiary foundation . . . shall be admissible (in the implied consent proceeding) without further evidentiary foundation." **LED EDITOR'S NOTE: This change appears to be intended to reduce the need for live officer testimony in the administrative hearing; whether it will have that result may depend on the DOL administrative law judges.**

If DOL sustains the revocation, etc., then the person may appeal to the superior court in the county of arrest, as previously provided under the 1994 law, but the review now will be entirely on the record, so officers should not be required to testify in these proceedings as they have in the past. Various other changes in the

law relating to the superior court review process will not be addressed in this LED entry.

Note that even if the 1995 changes (re administrative hearing and re superior court review -- see above) have the desired effect of reducing officer testimony, the cases in the system under the pre-1995 legislative scheme will have to be resolved under that old scheme, so testimony in administrative hearings and in superior court proceedings will continue for some time to come.

Misdemeanor For Under-21's To Drive With .02 Or Greater

The 1995 act amends RCW 46.20.309 to make it a misdemeanor for a person under age 21 to operate a motor vehicle and to have, ala DUI and physical control crimes, "within 2 hours after operating the motor vehicle, an alcohol content of .02 or more . . ." (The 1994 act made this a basis for revocation, etc., but not a crime.) This new crime parallels the DUI and physical control crimes in relation to defenses, as well as other aspects of the crime definition.

Implied Consent For Blood Tests To Check For Drugs

The 1995 act amends RCW 46.20.308 to provide that there is implied consent for a blood test for drugs where there is probable cause to believe that a person was driving under the influence of a drug. Probable cause is a legal term of art, not defined in the statute, but familiar to law enforcement officers as used in its constitutional sense. Probable cause to arrest is defined in constitutional cases along the following lines:

Probable cause is present if one has reasonable grounds for a person of ordinary care and prudence to believe that a crime has been committed and that the person to be arrested committed it. To determine if there are reasonable grounds, one should look at the totality of the objective facts and circumstances known to the officer(s) at the time of arrest, taking into consideration the special experience, training, and expertise of the officer(s).

This new trigger to implied consent -- probable cause to arrest for driving under the influence of drugs -- will require some attorney/law enforcement study. First, officers need to know what constitutes probable cause in this context: (a) Track marks, coupled with impaired condition and no indication of alcohol ingestion? (b) Impaired condition, physical signs of intoxication, but absence of alcohol odor? (c) Alcohol odor, obviously gross intoxication, but low breath test reading? Our preliminary research indicates that all of these circumstances have been found to be PC for DUI-drugs in California appellate court cases. Second, officers need to know what, if any, separate warnings are required prior to such implied consent blood tests for drugs. No doubt, other questions will arise. We will present more information as we learn of developments in this new legal area.

Implied Consent For Blood Tests At Hospitals, Etc.

Under pre-1995 law, where a person was at a hospital, clinic, or doctor's office "as a result of a traffic accident" and no breath test machine was available, there was deemed to be implied consent for a blood test, rather than a breath test. The pre-95 statute's requirement of a traffic accident provided a loophole for people to falsely claim a medical problem in non-accident situations and frustrate the performance of testing while the officer waited for release of the DUI arrestee by a doctor. The 1995 act plugs this loophole, as the implied consent blood test language of RCW 46.20.308 has been amended as follows:

However, in those instances where (~~(a)~~) the person is incapable due to physical injury, physical incapacity, or other physical limitation, of providing a breath sample (~~(or (b) as a result of a traffic accident)~~) or where the person is being treated (~~(for a medical condition)~~)

in a hospital, clinic, doctor's office, emergency medical vehicle, ambulance, or other similar facility in which a breath testing instrument is not present . . . a blood test shall be administered . . .

[In bill-draft form to show pertinent language changes.]

Forcible Blood Tests Following Injury Accidents

Under the pre-1995 statute, subsection (3) of RCW 46.20.308 provided for forcible blood testing for -- (A) unconscious DUI or physical control arrestees, (B) vehicular homicide or vehicular assault arrestees, and (C) arrestees involved in injury accidents where there was a reasonable likelihood of death of a victim. The first two forcible blood testing triggers (i.e., arrest of unconscious DUI suspect, arrest of vehicular homicide or vehicular assault suspect with PC re drugs or alcohol) were not changed by the 1995 act, but the third trigger was modified to substitute for the "likelihood of death" requirement a "serious bodily injury" requirement.

Subsection (3) now reads in its entirety:

(3) Except as provided in this section, the test administered shall be of the breath only. If an individual is unconscious or is under arrest for the crime of vehicular homicide as provided in RCW 46.61.420 or vehicular assault as provided in RCW 46.61.522, or if an individual is under arrest for the crime of driving while under the influence of intoxicating liquor or drugs as provided in RCW 46.61.502, which arrest results from an accident in which there has been serious bodily injury to another person, a breath or blood test may be administered without the consent of the individual so arrested.

CONCEALED PISTOL LICENSES

CHAPTER 351 (SHB 1152)

Effective Date: July 23, 1995

Amends RCW 9.41.070 to: (1) reduce concealed pistol license (CPL) fee from \$50 to a nonrefundable \$36 fee, paid upon application, plus additional charges which agency may pass on to the applicant for FBI criminal records check; (2) reduce the CPL renewal fee from \$20 to \$10; (3) authorize a \$10 fee for CPL's issued to replace those lost or damaged; (4) extend the duration of the CPL from four to five years; (5) change the CPL application to allow the issuing agency to inquire about the "residential address" and telephone number (the latter is "at the option of the applicant"); (6) require that an application for an original CPL include "two complete sets of fingerprints to be forwarded to the WSP; and (7) require that noncitizens applying for a CPL "produce proof of compliance with RCW 9.41.170 upon application."

TATOOING MINORS A MISDEMEANOR

CHAPTER 373 (ESSB 5190)

Effective Date: July 23, 1995

Adds a new section to chapter 26.28 RCW providing:

Every person who applies a tattoo to any minor under the age of eighteen is guilty of a misdemeanor. It is not a defense to a violation of this section that the person applying the

tattoo did not know the minor's age unless the person applying the tattoo establishes by a preponderance of the evidence that he or she made a reasonable, bona fide attempt to ascertain the true age of the minor by requiring production of a driver's license or other picture identification card or paper and did not rely solely on the oral allegations or apparent age of the minor.

For the purposes of this section, "tattoo" includes any permanent marking or coloring of the skin with any pigment, ink, or dye, or any procedure that leaves a visible scar on the skin. Medical procedures performed by a licensed physician are exempted from this section.

DISABLED PARKING SPACE INFRACTION

CHAPTER 384 (ESB 5873)

Effective Date: July 23, 1995

Amends RCW 46.16.381 and 46.08.150 to increase from \$50.00 to \$175.00 (not including statutory assessments) the monetary penalty for the parking infraction of illegally parking in a parking place reserved for disabled persons.

CPL EXEMPTION FOR RETIRED LAW ENFORCEMENT OFFICERS

CHAPTER 392 (SHB 1069)

Effective Date: July 23, 1995

Amends RCW 9.41.060 to provide an additional exemption from the concealed pistol license requirement. The exemption applies to retired law enforcement officers as follows:

Law enforcement officers retired for service or physical disabilities, except for those law enforcement officers retired because of mental or stress-related disabilities. This subsection applies only to a retired officer who has obtained documentation from a law enforcement agency within Washington state from which he or she retired that is signed by the agency's chief law enforcement officer and that states that the retired officer was retired for service or physical disability.

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