

LEGISLATIVE SESSION SUMMARY 2011

June 10, 2011

Here is our summary of the ups and downs for 2011 State legislative session. This state legislative session was a budget year, meaning the Legislature had to pass budget legislation to fund state programs for the next two fiscal years (July 2011 – June 2013). Unfortunately, the legislature was faced with over a \$5 billion dollar budget shortfall, meaning that the costs of current programs exceed what the state is bringing in tax revenues by \$5 billion. The Legislature adjourned on April 22 without having completed its work on passing the budget. The Governor called the Legislature back into session to finish the budget, which they completed on May 25.

Following is a summary of the status of WSCADV's legislative priorities for the 2011 session. To review a more detailed summary of issues WSCADV worked on during the 2011 state legislative session, see our previous Legislative Updates at: www.wscadv.org/PublicPolicy.cfm.

To view the full text of new laws or legislation, go to the Washington State Legislature webpage at <http://apps.leg.wa.gov/billinfo/> and input the bill number.

State Budget/Funding

ESHB 1087/SB 5094 - 2011/2013 operating budget WSCADV's highest priority this legislative session protecting funds for domestic violence services and advocacy, including shelters, domestic violence legal advocacy, and funding for domestic violence services for underserved victims.

The final budget that passed the legislature cut state spending by approximately 4.5 billion, and made up the rest with \$459 in fund transfers and assumes that there will be higher-education tuition increases amounting to \$376 million. Provisions in the budget that affect domestic violence survivors include:

- 1) **maintaining funding** for DV shelter programs, community based programs for underserved victims, and domestic violence legal advocacy (level funding)
- 2) reducing Homelessness/Housing (eg THOR, ESAP) services by \$8.148 million
- 3) eliminating the Disability Lifeline (GA-U) grant, cutting \$116 million, and leaving the remaining amount to implement a Housing/Essential Needs Program (see HB 2082, below)
- 4) reducing funding for Child Advocacy Centers by \$90,000, a 6.28% reduction

- 5) Reducing funding for the State Food Assistance Program by \$30.283 million (extending the cut from the Early Action Budget for the 2009-2013 budget-see below)
- 6) Eliminating the Child Support Pass Through-\$37.5 million reduction (extended from reductions made in December 2010 Special Session)
- 7) Reduction of Working Connections Childcare eligibility to those below 175% of poverty (\$2670 for family of 3)
- 8) Reduction of Adult Non-Emergency Dental Services by \$57.539 million
- 9) cutting the Basic Health Plan by \$129 million, and freezing enrollment
- 10)reducing the Department of Corrections budget by \$137 million, reducing supervision of certain felons, deporting some non-citizen offenders, and closing McNeil Island)
- 11)reducing Crime Victims Compensation by \$1.56 million by eliminating certain benefits such as partial disability.

ESHB 1086/SB 5095 – 2009/2011 “Early Action” operating budget

This bill modified the budget for the biennium that ends June 30, 2011. The Early Action Budget was necessary for program cuts to be made now, rather towards the end of the fiscal year, given the significant budget shortfall of \$600 million for the 2009/2011 biennium. The bill that passed both chambers includes \$242 million in budget reductions, and \$125 million in fund transfers, to partially close the budget shortfall.

- Maintains existing levels of funding for Domestic Violence shelters, the Domestic Violence Prevention Account, and Domestic Violence legal advocacy
- Cut the Disability Lifeline cash grant by 42 percent of the current amount
- Limits the Children’s Health Program eligibility to families at 200 percent of the federal poverty level, and allows families between 201 and 300 percent of FPL to buy in at full cost; does not freeze admittance
- Limits Basic Health Plan eligibility to individuals eligible for a Medicaid waiver (ie undocumented individuals are ineligible)
- Cut the State Food Assistance Program for individuals ineligible for Federal Food Stamps (cut of \$4.8 million)

ESHB 1497/SB 5467 – Capital Budget 2011-2013

The Capital Budget makes appropriations for construction and building. A large portion of the Capital Budget is the Housing Trust Fund, the largest public funding source for the creation of affordable homes for low-income families and individuals. The final capital budget that passed included \$50 million for the Housing Trust Fund.

Legislation Supported by WSCADV that Passed

Protection Orders

SHB 1565-Relating to the Termination or Modification of Permanent and Long Term DV Protection Orders-This bill lays out the process and guidelines in cases where the restrained person in a long term (more than 2 years) or

permanent protection order wants to terminate or modify the order. The bill is a response to the Washington State Supreme Court case, *In Re Marriage of Freeman*. The *Freeman* decision ruled that the court could consider, among other things, when deciding whether to terminate a permanent protection order, whether the protected person had a *current, reasonable* fear of the respondent. This particular element was problematic for victims whose abusers are abiding by a permanent protection order, because there would be recent acts of abuse. This bill requires that the restrained person show, by a preponderance of the evidence, that there has been “a substantial change of circumstances” such that s/he is not likely to commit domestic violence against the protected parties again, if the order is terminated.

Before being permitted to move forward to a hearing, the restrained person would first have to show s/he has “adequate cause” to modify or terminate the order by showing that a substantial change of circumstances had occurred (so s/he can’t continue to argue about the facts and re-litigate the abuse that formed the basis of the order). The amended bill lists out the factors a court should consider in determining whether there has been a “substantial” change of circumstances, to those that show whether or not the restrained person is likely to commit domestic violence again. The bill also explicitly says that in cases involving the modification or termination of a long term order, that the protected person does not have to establish a current reasonable fear of the abuser.

Prime Sponsor: Representative David Frockt, 46th District

Criminal Legal Response

SHB 1188-Regarding Suffocation and Other Domestic Violence

Offenses This bill includes suffocation in the definition of 2nd Degree Assault (similar to strangulation). In addition, the bill allows convictions for certain domestic violence offenses to be excluded from scoring when sentencing in felony domestic violence cases if the prior convictions are older than 10 years.

Prime Sponsor: Representative Roger Goodman, 45th District

Housing/Homelessness

SHB 1811/SB 5646—Allowing for informed telephonic consent for access to

housing or homelessness services Provides for access housing/homeless services through coordinated entry systems while protecting personally identifying information. Telephonic consent may be given by the homeless individual to share basic personally identifying information during a coordinated entry call, provided that written consent is obtained at the first time the individual is physically present at an organization with access to the Washington Homeless Client Management Information System.

Prime Sponsors: **SHB 1811**-Representatives Larry Springer, 45th District
SB 5646-Senator Craig Pridemore, 49th District

Domestic Violence Research

SB 5395– Domestic Violence Fatality Review Panels This bill amends the statute regulating domestic violence fatality reviews, allowing statewide issue-specific domestic violence fatality review panels. The legislation also eliminates the ongoing requirement for a biennial report.

Prime Sponsor: Senator Jim Hargrove 24th District

Legislation Supported by WSCADV that Failed

Housing

HB 2048—Relating to low-income and homeless housing assistance surcharges This bill, which incorporated many of the provisions from other bills introduced during the session, including **HB 1707, HB 1768, and SB 5645**, would have extended existing recording surcharges that fund low-income and homeless housing assistance. HB 2048 would have preserved the existing surcharge on recording documents, and added an additional surcharge of \$10 dollars would have been added, bringing the total surcharge to \$40. On June 30, 2015, the surcharge would return to \$30, which would sunset on June 30, 2017. The \$24 million generated by this surcharge would have offset the \$8 million dollar reduction that was included in the final budget.

Prime Sponsor: Representative Phyllis Kenney-46th District

HB 1526—Relating to tenant screening under the residential landlord-tenant act-Directs that a tenant screening service shall not include in a tenant screening report provided to a landlord a qualified victim protection record pertaining to the prospective client, including domestic violence and sexual assault protection orders. Includes other prospective tenant protections related to limiting costs that landlords may collect for the screening and landlord notification to the tenant of what the tenant screening entails.

Prime Sponsor: Representative Tina Orwall, 33rd District

SB 5050—Interest on Residential Landlord Security Deposits for Affordable Housing Requires interest accrued on trust account deposits from residential tenant security deposits to be deposited monthly in the affordable housing for all account, which funds homeless housing efforts.

Prime Sponsor: Senator Adam Kline, 37th District

Revenue

HB 1847, 2022 SB 5937, 5945, 5947—Terminating Certain Tax Preferences to Fund

Various bills were introduced to eliminate certain tax preferences to fund government services, including:

capping the first mortgage deduction tax preference on banks and limiting the first mortgage deduction to \$100 million a year, or establishing an annual airplane excise tax of five-tenths of one percent of the taxable value of an aircraft, imposing a sales and use tax on cosmetic surgery, repealing the sales tax exemption for coal used at coal-fired thermal electric generation facilities, repealing sales tax exemptions for propane, or on the sale of bedding that is used for facilities housing chickens, and eliminating a long list of preferential B&O taxes.

Sponsors: HB 1847-Representative Eileen Cody, 34th District,

HB 2022-Representative Chris Reykdal, 22nd District,

SB 5937- Senator Paull Shin, 21st District,

SB 5945-Senator Phil Rockefeller-23rd District,

SB 5947-Senator Tracy Eide, 30th District

Privacy

SB 5019-Relating to the Privacy of Non-Conviction Records- This bill prohibits law enforcement agencies from sharing non-conviction data unless the individual identified in the data has provided express written permission for the dissemination. Non-conviction data would include vacated conviction information. In addition, the bill provided that if requested by the person who is the subject of the record, a "record of an exonerating disposition" held by a court or judicial agency must be kept confidential by that court or agency. However, the record would remain available to court personnel, judicial officers, law enforcement, prosecuting attorneys, the individual identified in the records, and the attorney for that individual. Finally, the bill provided that: courts and other criminal justice agencies cannot make information relating to the registration, filing of a petition for, or the issuance of an order for protection available on a website accessible by the public if:

- 1) the publication would be likely to publicly reveal the identity or location of the party protected under the order;
- 2) the request to issue an order of protection has been withdrawn; or
- 3) after a hearing, the court has declined to issue an order for protection.

Courts and other criminal justice agencies may share court and law enforcement generated data contained in secure governmental registries on the Internet for protection order enforcement purposes or for oversight and accountability purposes.

Prime Sponsor: Senator Debbie Regala, 27th District

Legislation Opposed by WSCADV that Failed

Criminal Legal Response

SB 5866-Reducing prison sentences in order to generate correctional cost savings and invest in evidence-based programming

This bill would have reduced sentences for felony offenders serving a sentence in prison, providing for a reduction in his or her release date as follows:

- offenders classified as a low risk to reoffend must be given a 120-day credit;
- offenders classified as a moderate risk to reoffend must be given a 90-day credit; and
- offenders classified as a high nonviolent risk to reoffend must be given a 60-day credit.

The reduction must apply to an offender's sentence after the application of any earned early release time and applies regardless of whether the offender was convicted before, on, or after the effective date of this act. The reduction does not apply to any offender sentenced to life without parole or serving a term of confinement for murder, a sex offense, a Drug Offender Sentencing Alternative, or SSOSA.

Fifty percent of the savings generated from the sentence reductions must be reinvested in evidence-based programming

Prime Sponsor: Senator Adam Kline, 37th District

Privacy

SB 5671-Mandatory Reporting of Gunshot Wounds-

This bill would mandate that hospitals must report to a local law-enforcement authority specific information about conscious patients who are being treated for a bullet or gunshot wound. The bill would also mandate that hospitals must report to local law enforcement authorities as soon as reasonably possible when the hospital receives or provides treatment to a person who is deceased, or dies after admission, from a drug-related overdose.

Prime Sponsor-Senator Doug Erickson-42nd District

Other Legislation of Interest that Passed

SHB 1626/ SB 5579-Modifying Anti-Harassment Provisions- This bill directs district courts to transfer anti-harassment order proceedings to Superior Court in cases where the respondent is under 18, where title or possession of real property is involved, where Superior Court already has jurisdiction over another case involving the parties, or in cases where the action would affect the respondent's parenting responsibilities. The amended House bill redefines "unlawful harassment" as excluding "constitutionally protected speech" and would prohibit courts from issuing ex-parte orders that would restrict a respondent from caring for his or her minor children, and enjoying his or her real property.

Originally, both of these bills redefined “unlawful harassment” but excluded communications with a third party that do not involve a threat from being considered, and would have prohibited courts from issuing ex-parte orders that would restrict a respondent from communicating with third parties. The original bills also repealed filing fee exemptions for anti-harassment protection order petitions that are granted in cases involving stalking, sex offenses, and domestic violence. Both bills have been amended to strike these provisions, which would have created a large loophole for stalkers to harass through third parties, and because the repeal of the filing fee exemptions may have jeopardized Washington State’s eligibility for federal STOP funding.

Sponsors: SHB 1626: Representative Roger Goodman, 45th District, **SB 5579-Senator Adam Kline,** 37th District

SSB 5691-Crime Victims Compensation

This bill addresses funding shortfalls in the Crime Victims Compensation Program by:

- eliminating the benefit for permanent partial disability for victims
- Eliminating payments for home and vehicle modifications
- Non-medical benefits are limited to \$40,000 out of the \$50,000 benefit cap.
- Clarifies that colposcopy exams are excluded from the \$50,000 benefit cap.

The methods used to determine the amount of claim payments for total permanent disability, financial support, and fatality benefits are simplified. L&I is permitted to use electronic means of communication. In addition, the bill de-links CVCP provisions from laws relating to Industrial Insurance.

Prime Sponsor-Senator Jim Hargrove-24th District

SSB 5891-Relating to Criminal Justice Cost Savings

This bill reduces criminal legal system costs by:

- Eliminating tolling of community custody while an offender is confined for violating a sentencing condition (meaning an offender who violates a sentencing condition if it is not a separate crime) and is confined does not have community custody time extended.
- Adds DOC supervision for certain domestic violence felony offenders who have a current conviction for a felony DV offense if DV was plead and proven after August 1, 2011; *and* (2) a prior conviction for a felony or repetitive DV offense if DV was plead and proven after August 1, 2011.
- The DOC must supervise offenders sentenced to probation who have: (1) a current conviction for a repetitive DV offense if DV was plead and proven after August 1, 2011; *and* (2) a prior conviction for a felony or repetitive DV offense if DV was plead and proven after August 1, 2011.
- Provides for supervision by the DOC of misdemeanor offenders convicted of Assault in the fourth degree or violation of a DV court order is limited to offenders convicted prior to August 2, 2011. Supervision of these offenders will end August 1, 2014.
- Reduces the maximum terms of community custody for offenders sentenced under the First-Time Offender Waiver.
- Permits the DOC to collect a one-time supervision intake fee of \$400 to \$600 instead of a monthly assessment for offender supervision.

- Transfers the Indeterminate Sentencing Review Board to the DOC.
- Requires the Caseload Forecast Council to serve as a clearinghouse and information center on adult and juvenile sentencing and data collection.
- Requires the DOC to serve as the State Council for the Interstate Compact on Adult Offender Supervision

Prime Sponsor: Senator Jim Hargrove, 24th District

SB 5921– An Act Revising Social Services Programs

This bill makes significant changes to the WorkFirst and Working Connections Childcare Programs. During fiscal year 2012, WorkFirst activity requirements are suspended for one and two parent families on TANF, for families with one child under two, or families with two or more children under the age of six years. Both parents in a two parent family cannot use the suspension during the same month. Beginning on July 1, 2012, DSHS is to begin phasing in recipients required to participate in WorkFirst back into work activities, starting with those recipients closest to reaching the 60-month time limit for receiving TANF. A recipient affected by the suspension may volunteer to participate in the WorkFirst program during the suspension.

The bill also establishes a legislative-executive WorkFirst oversight task force, and requires that DSHS must use using performance-based for WorkFirst work activities.

The bill requires DSHS to institute income eligibility rules, effective November 1, 2011, for those persons receiving TANF benefits for a child, other than a foster child, for whom the person is the caregiver. DSHS is to establish a sliding scale benefit standard for a child when the caregiver's income is above 200 percent but below 300 percent of the federal poverty level based on family size.

SB 5921 requires that DSHS adopt regulations to apply the 60-month time limit to households in which a parent is in the home and ineligible for TANF.

The bill changes the Working Connections Child Care (WCCC) program to require WCCC participants to seek child support enforcement services from DSHS, unless there is good cause not to. A WCCC recipient is eligible to receive childcare benefits for up to six months before having to recertify his or her income eligibility. The six-month recertification period applies only if the WCCC program entries are capped.

DSHS and DEL, in consultation with interested individuals and organizations, must jointly identify different options to track subsidized child care attendance including methods using a landline or cellular telephone, a computer, a point of sale system, or some combination of these methods and report their recommendations to the Legislature by December 31, 2011.

SB 5921 requires that DSHS to develop strategies to increase opportunities for public assistance recipients to maintain bank accounts with a goal of increasing recipient financial literacy and financial management skills and minimizing recipient costs associated with ATM transaction fees. A report and recommendations is to be submitted to the relevant policy and fiscal legislative committees by December 1, 2011.

DSHS, in contracting with electronic benefit card providers, must require that any surcharge or transaction fee charged by the provider be disclosed to EBT clients at the point at which the surcharge or transaction fee occurs.

A TANF recipient is prohibited from using an EBT card or cash obtained with an EBT card for the following:

- to participate in or purchase activities located in a tattoo, body piercing, or body art shop;
- to purchase any alcoholic beverage;
- to purchase cigarettes or tobacco products; or
- to purchase or participate in any activity in certain locations.

The bill also prohibits the businesses listed below from allowing ATMs and point-of-sale machines on their premises to accept EBT cards: Taverns, beer/wine specialty stores, nightclubs, contract liquor stores, but only for the point-of-sale machines used for liquor purchases, bail bond agencies, gambling establishments, tattoo, body piercing, or body art shops, adult entertainment venues with performances that contain erotic material where minors under the age of 18 are prohibited; and any establishments where persons under the age of 18 are not permitted.

Only the recipient or the recipient's authorized representative may use an EBT card or EBT card benefits and the use may only be for the respective benefit purposes. The recipient may not sell, or attempt to sell, exchange, or donate an EBT card or any benefits to any other person or entity, and misuse of the EBT card is a civil infraction. Any of the listed business establishments that do not comply with the requirement to disable ATM and point-of-sale machines on their business premises from accepting EBT cards will have its business license suspended until it complies with the requirements.

Finally the bill creates the Office of Fraud and Accountability (OFA) is established in DSHS to detect, investigate, and prosecute any act that constitutes fraud or abuse in the public assistance programs administered by DSHS except for Medicaid and other medical programs.

Prime Sponsor: Senator Debbie Regala, 27th District

SSB 2082-Regarding the Long Term Disability Lifeline Program and the Essential Needs and Housing Supports Program

This bill completely changes the Disability Lifeline (formerly General Assistance Unemployable-GAU program) by:

-Creating the Long-term Disability Assistance, the Aged, Blind, and Disabled Assistance, and the Pregnant Women Assistance Programs effective November 1, 2011 (maintaining a cash grant and medical supports for individuals with disabilities who are likely eligible for SSI due to their disability or age or pregnant women who are ineligible for TANF for reasons other than failure to cooperate in Workfirst)

- Creating the Essential Needs and Housing Support Program (ENHS) and eliminates cash effective November 1, 2011.
- Designates the Department of Commerce (COM) to contract with local communities or organizations to provide services under the ENHS (housing and essential needs) and to distribute appropriated funds based on a proportional formula.
- Provides for Medical Care Services for individuals who are unable to work.

Prime Sponsor: Representative Ruth Kagi, 32nd District

HB 1146, SB 5023 Immigration Fraud Prevention Act -

This bill clarifies that people not authorized practice law in Washington State, are prohibited from engaging in the practice of law in an immigration matter for compensation. In addition, they are also prohibited from engaging in the following acts or practices for compensation:

- (1) advising or assisting another person in determining the person's legal or illegal status for the purpose of an immigration matter;
- (2) selecting, assisting another in selecting, or advising another how to answer questions on a government agency form related to immigration matters;
- (3) selecting, assisting another in selecting, or advising another in selecting a benefit, visa, or program to apply for in immigration matters;
- (4) soliciting to prepare documents for another in a judicial or administrative proceeding in an immigration matter;
- (5) explaining, selecting, drafting, or completing documents to support or establish a benefit for another in an immigration matter.

The bill also clarifies that individuals, other than those licensed to practice law in this state or otherwise permitted to practice law or represent others under federal law in an immigration matter, are also prohibited from engaging in the following acts regardless of whether compensation is sought:

- (1) representing that he or she is a lawyer, notario publico, notario, immigration assistant, immigration consultant, immigration specialist, or using any other designation or title that implies that the person is a professional with legal skills in the area of immigration law; and
- (2) representing, in any language, in any manner, that he or she can provide services in an immigration matter, if such services would constitute the practice of law.

Persons who are not attorneys or otherwise permitted under federal law to represent immigrants may, for compensation (1) translate words on government forms that the immigrant presents to the person providing translation; (2) secure existing documents, such as birth and marriage certificates; and (3) offer other immigration related services that are not prohibited by the act or other law or that do not constitute the practice of law.

Notary publics licensed in Washington who are not licensed attorneys may not use the term notario publico, notario, immigration assistant, immigration consultant, immigration specialist, or other designation conveying or implying that he or she possesses professional legal skills in the areas of immigration law, when advertising notary public services.

The state's Practice of Law Board (Board) is requested to evaluate (1) the specific services non-attorneys may provide to immigrants that do not rise to the level of the practice of law; (2) the level of access to those services and quality of those services; and (3) the level of need for non-legal services compared to legal services in immigration matters, with a report of the Board's findings and recommendations to be submitted to the Legislature by December 1, 2011.

A violation of any of these prohibitions is considered unprofessional conduct. Persons injured by violation of these provisions can bring a civil action to recover either \$1,000 or actual damages caused by a violation, whichever is greater.

Prime Sponsors: Representative Phyllis Kenney, 46th District, and Senator Margarita Prentice, 11th District

Other Legislation of Interest that Failed

HB 1591/ SB 5552-Expanding Protections Against Workplace Harassment in Anti-Harassment Orders- This bill allows employers to petition the court for civil anti-harassment protection orders to restrain a person from engaging in unlawful harassment affecting the workplace. Employers must notify employees that they are filing for orders on their behalf, and in cases involving domestic violence, sexual assault, or stalking, the employer must obtain the consent of the employee prior to filing. In addition, the bill provides that an employer may not take an adverse action for an employee refusing consent.

Prime Sponsors: **HB 1591:** Representative Judy Warnick, 13th District; **SB 5552-** Senator Jeanne Kohl-Welles, 36th District

SHB 1180-Modifying Anti-Harassment Orders to Enhance Responses to Victims of Stalking-

This *amended* bill provides that a Court can order electronic monitoring as part of a title 10.14 permanent (not ex-parte) anti-harassment order, directs AOC to modify the anti-harassment order forms to designate when the orders are based on stalking behavior, and provides for mandatory arrest of a respondent who violates such an order. The amended bill also defines "stalking" for the purposes of an anti-harassment order.

Prime Sponsor: Representative Roger Goodman, 45th District

HB 2007/SB 5865– Relating to Participation in the Workfirst Program

HB 2007/SB 5865 adds to the definition of 'good cause' for failure to participate in the WorkFirst program parents of a child under age 2. Further, the bill states that if a participant does not participate on a voluntary basis in the WorkFirst program (i.e.

parents who could claim a good cause exemption) the participant is not eligible for child care services.

Sponsors: Representative Eric Pettigrew and Senator Adam Kline, both of the 27th District

SB 5660– An Act Relating to Public Assistance

This bill directs that the TANF block grant is to be appropriated to the Department of Social and Health Services (DSHS) each year in the appropriations act subject to a number of restrictions, and that the Child Care Development Fund is to be appropriated to the Department of Early Learning (DEL) each year in the appropriations act to carry out the provisions of WCCC program, child care quality programs, and child care licensing functions. DEL must transfer to DSHS sufficient funds to perform WCCC eligibility determinations, service authorizations and child care provider payments. The substitute bill puts child care eligibility at 175% of the poverty level. During the 2011-13 biennium, the 15 percent reduction in the TANF grant instituted in the 2010 supplemental budget is continued. A household member's SSI grant cannot be considered when determining eligibility of an applicant or recipient for TANF.

Recipients with children under age six who are required to participate in work activity cannot be required to participate more than 20 hours per week. DSHS and DEL must institute an EBT system for the child care subsidy program. The Caseload Forecast Council is to provide the Legislature with a courtesy copy of the TANF caseload. A fraud ombudsman is created in the State Auditor's Office to oversee the work of the Division of Fraud Investigations within DSHS.

Prime Sponsor: Senator Debbie Regala, 27th District

For more information on these and other Washington State legislative issues, email: action@wscadv.org.