

No. 81644-1

WIGGINS, J. (concurring in part, dissenting in part)—I agree with the majority's result, but not its reasoning. It is unnecessary to reach the constitutional issues in this case because David McCuiston lacks standing to challenge the 2005 amendments. A person cannot urge the unconstitutionality of a statute unless he or she is harmfully affected by the particular feature of the challenged statute that violates the constitution. *State v. Lundquist*, 60 Wn.2d 397, 401, 374 P.2d 246 (1962). McCuiston challenges only the 2005 amendments to RCW 71.09.090. However, he is not harmfully affected by those amendments because he would have faced the same result under pre-2005 law; this is because he alleges *no change* in his condition, and some change is required even under pre-2005 law. We have already found the pre-2005 statute constitutional. *In re Pers. Restraint of Young*, 122 Wn.2d 1, 39, 857 P.2d 989 (1993). Thus, I would affirm but decline to reach the constitutional issues.

AUTHOR:

Justice Charles K. Wiggins

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WE CONCUR:

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