

government and its existing public institutions, and shall take effect immediately.

Passed the House March 30, 1981.

Passed the Senate April 21, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 163

[Substitute House Bill No. 525]

PUBLIC ASSISTANCE OVERPAYMENTS OBTAINED BY FRAUD—RECOVERY
AN ACT Relating to public assistance; and adding new sections to chapter 74.04 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Section 1. There is added to chapter 74.04 RCW a new section to read as follows:

(1) Any person who owes a debt to the state for an overpayment of public assistance obtained as a result of a wilfully false statement, or representation, or impersonation, or other fraudulent device, or wilful failure to reveal resources or income shall be notified of that debt by either personal service or certified mail, return receipt requested. Personal service, return of the requested receipt, or refusal by the debtor of such notice is proof of notice to the debtor of the debt owed. Service of the notice shall be in the manner prescribed for the service of a summons in a civil action. The notice shall include a statement of the debt owed; a statement that the property of the debtor will be subject to collection action after the debtor terminates from public assistance; a statement that the property will be subject to lien and foreclosure, distraint, seizure and sale, or order to withhold and deliver; and a statement that the net proceeds will be applied to the satisfaction of the overpayment debt. Action to collect the debt by lien and foreclosure, distraint, seizure and sale, or order to withhold and deliver, is lawful after ninety days from the debtor's termination from public assistance or the receipt of the notice of debt, whichever is later. This does not preclude the department from recovering fraudulent overpayments by deduction from subsequent assistance payments, not exceeding ten percent of each subsequent assistance payment.

(2) Any debtor who alleges defenses to the debt or disputes the stated amount of the debt has the right to request in writing a hearing pursuant to RCW 74.08.070. If no such request is made, the debt will be subject to collection action as authorized under this chapter. If a timely request is made, the execution of collection action on the debt shall be stayed pending the decision of the hearing or termination of the debtor from public assistance, whichever occurs later. The right to an appeal shall be governed by

RCW 74.08.070, 74.08.080, and the Administrative Procedure Act, chapter 34.04 RCW.

NEW SECTION. Sec. 2. There is added to chapter 74.04 RCW a new section to read as follows:

After service of a notice of debt for an overpayment as defined in RCW 74.04.300 as provided for in this chapter, stating the debt accrued, the secretary may issue to any person, firm, corporation, association, political subdivision, or department of the state, an order to withhold and deliver property of any kind including, but not restricted to, earnings which are due, owing, or belonging to the debtor, when the secretary has reason to believe that there is in the possession of such person, firm, corporation, association, political subdivision, or department of the state property which is due, owing, or belonging to the debtor. The order to withhold and deliver shall state the amount of the debt, and shall state in summary the terms of this section, RCW 7.33.280, chapters 6.12 and 6.16 RCW, 15 U.S.C. 1673, and other state or federal exemption laws applicable generally to debtors. The order to withhold and deliver shall be served in the manner prescribed for the service of a summons in a civil action or by certified mail, return receipt requested. Any person, firm, corporation, association, political subdivision, or department of the state upon whom service has been made shall answer the order to withhold and deliver within twenty days, exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of therein. The secretary may require further and additional answers to be completed by the person, firm, corporation, association, political subdivision, or department of the state. If any such person, firm, corporation, association, political subdivision, or department of the state possesses any property which may be subject to the claim of the department of social and health services, such property shall be withheld immediately upon receipt of the order to withhold and deliver and shall, after the twenty-day period, upon demand, be delivered forthwith to the secretary. The secretary shall hold the property in trust for application on the indebtedness involved or for return, without interest, in accordance with final determination of liability or nonliability. In the alternative, there may be furnished to the secretary a good and sufficient bond, satisfactory to the secretary, conditioned upon final determination of liability. Where money is due and owing under any contract of employment, express or implied, or is held by any person, firm, corporation, association, political subdivision, or department of the state subject to withdrawal by the debtor, such money shall be delivered by remittance payable to the order of the secretary. Delivery to the secretary, subject to the exemptions under RCW 7.33.280, chapters 6.12 and 6.16 RCW, 15 U.S.C. 1673, and other state or federal law applicable generally to debtors, of the money or other property held or claimed satisfies the requirement of the order to withhold and deliver. Delivery to the secretary serves as full acquittance, and the state warrants and

represents that it shall defend and hold harmless for such actions persons delivering money or property to the secretary pursuant to this chapter. The state also warrants and represents that it shall defend and hold harmless for such actions persons withholding money or property pursuant to this chapter.

The secretary shall also, on or before the date of service of the order to withhold and deliver, mail or cause to be mailed by certified mail a copy of the order to withhold and deliver to the debtor at the debtor's last known post office address, or, in the alternative, a copy of the order to withhold and deliver shall be served on the debtor in the same manner as a summons in a civil action on or before the date of service of the order or within two days thereafter. The copy of the order shall be mailed or served together with a concise explanation of the right to petition for a hearing on any issue related to the collection. This requirement is not jurisdictional, but, if the copy is not mailed or served as provided in this section, or if any irregularity appears with respect to the mailing or service, the superior court, on its discretion on motion of the debtor promptly made and supported by affidavit showing that the debtor has suffered substantial injury due to the failure to mail the copy, may set aside the order to withhold and deliver and award to the debtor an amount equal to the damages resulting from the secretary's failure to serve on or mail to the debtor the copy.

NEW SECTION. Sec. 3. There is added to chapter 74.04 RCW a new section to read as follows:

If any person, firm, corporation, association, political subdivision, or department of the state fails to answer an order to withhold and deliver within the time prescribed in section 2 of this act, or fails or refuses to deliver property pursuant to the order, or after actual notice of filing of a lien as provided for in this chapter, pays over, releases, sells, transfers, or conveys real or personal property subject to such lien to or for the benefit of the debtor or any other person, or fails or refuses to surrender upon demand property distrained under section 2 of this act, or fails or refuses to honor an assignment of wages presented by the secretary, such person, firm, corporation, association, political subdivision, or department of the state is liable to the department in an amount equal to one hundred percent of the value of the debt which is the basis of the lien, order to withhold and deliver, distraint, or assignment of wages, together with costs, interest, and reasonable attorney fees.

NEW SECTION. Sec. 4. There is added to chapter 74.04 RCW a new section to read as follows:

Any person, firm, corporation, association, political subdivision, or department employing a person owing a debt for overpayment of public assistance received as defined in RCW 74.04.300, shall honor, according to its terms, a duly executed assignment of earnings presented to the employer by

the secretary as a plan to satisfy or retire an overpayment debt. This requirement to honor the assignment of earnings is applicable whether the earnings are to be paid presently or in the future and continues in force and effect until released in writing by the secretary. Payment of moneys pursuant to an assignment of earnings presented to the employer by the secretary serves as full acquittance under any contract of employment, and the state warrants and represents it shall defend and hold harmless such action taken pursuant to the assignment of earnings. The secretary is released from liability for improper receipt of moneys under assignment of earnings upon return of any moneys so received.

Passed the House April 2, 1981.

Passed the Senate April 22, 1981.

Approved by the Governor May 14, 1981.

Filed in Office of Secretary of State May 14, 1981.

CHAPTER 164

[Substitute House Bill No. 532]

CHILD ABUSE—ENFORCEMENT—RECORDS AVAILABILITY

AN ACT Relating to social and health services; amending section 2, chapter 13, Laws of 1965 as last amended by section 25, chapter 80, Laws of 1977 ex. sess. and RCW 26.44.020; amending section 3, chapter 13, Laws of 1965 as last amended by section 26, chapter 80, Laws of 1977 ex. sess. and RCW 26.44.030; amending section 5, chapter 13, Laws of 1965 as last amended by section 51, chapter 291, Laws of 1977 ex. sess. and RCW 26.44.050; and amending section 6, chapter 35, Laws of 1969 ex. sess. as last amended by section 29, chapter 80, Laws of 1977 ex. sess. and RCW 26.44.070.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 2, chapter 13, Laws of 1965 as last amended by section 25, chapter 80, Laws of 1977 ex. sess. and RCW 26.44.020 are each amended to read as follows:

For the purpose of and as used in this chapter:

(1) "Court" means the superior court of the state of Washington, juvenile department.

(2) "Law enforcement agency" means the police department, the prosecuting attorney, the state patrol, the director of public safety, or the office of the sheriff.

(3) "Practitioner of the healing arts" or "practitioner" means a person licensed by this state to practice podiatry, optometry, chiropractic, nursing, dentistry, osteopathy and surgery, or medicine and surgery. The term "practitioner" shall include a duly accredited Christian Science practitioner: PROVIDED, HOWEVER, That a child who is being furnished Christian Science treatment by a duly accredited Christian Science practitioner shall not be considered, for that reason alone, a neglected child for the purposes of this chapter.