

Sec. 5. Section 79, chapter 99, Laws of 1979 and RCW 43.131.222 are each amended to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, (~~(1984)~~) 1990:

(1) Section 13, chapter 189, Laws of 1971 ex. sess. and RCW 43.20A.370;

(2) Section 14, chapter 189, Laws of 1971 ex. sess. and RCW 43.20A-.375; and

(3) Section 15, chapter 189, Laws of 1971 ex. sess., section 99, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 43.20A.380.

Passed the Senate March 2, 1984.

Passed the House February 15, 1984.

Approved by the Governor March 28, 1984, with the exceptions of section 1(2) and section 1(4), which were vetoed.

Filed in Office of Secretary of State March 28, 1984.

Note: Governor's explanation of partial veto is as follows:

I am returning herewith, without my approval as to section 1(2) and section 1(4), Substitute Senate Bill No. 4647, entitled:

"AN ACT Relating to the state advisory committee to the Department of Social and Health Services."

These sections would require the Department of Social and Health Services (DSHS) to limit citizen participation in its activities to one advisory committee per division or bureau unless "exceptional circumstances" could be documented. Those sections would also severely limit the establishment of new advisory committees. I am opposed to these unnecessary and arbitrary restrictions on citizen involvement in state government.

When the Department of Social and Health Services was created in 1971, the legislature in its statement of purpose declared that meaningful citizen involvement and participation in the planning and programs of DSHS are essential. I agree with that statement and can find no reason to limit the ability of DSHS to involve citizens in its programs.

With the exception of these sections, Substitute Senate Bill No. 4647 is approved.

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## CHAPTER 260

[Engrossed Substitute House Bill No. 1627]

### CHILD SUPPORT OBLIGATIONS

AN ACT Relating to domestic support obligations; amending section 1, chapter 10, Laws of 1982 and RCW 6.12.100; amending section 11.52.010, chapter 145, Laws of 1965 as last amended by section 7, chapter 117, Laws of 1974 ex. sess. and RCW 11.52.010; amending section 11.52.012, chapter 145, Laws of 1965 as last amended by section 9, chapter 234, Laws of 1977 ex. sess. and RCW 11.52.012; amending section 11.52.020, chapter 145, Laws of 1965 as last amended by section 9, chapter 117, Laws of 1974 ex. sess. and RCW 11.52.020; amending section 11.52.022, chapter 145, Laws of 1965 as last amended by section 10, chapter 234, Laws of 1977 ex. sess. and RCW 11.52.022; amending section 1, chapter 28, Laws of 1913 as last amended by section 34, chapter 154, Laws of 1973 1st ex. sess. and RCW 26.20.030; amending section 3, chapter 28, Laws of 1913 as amended by section 36, chapter 154, Laws of 1973 1st ex. sess. and RCW 26.20.080; amending section 5, chapter 322, Laws of

1959 as last amended by section 20, chapter 201, Laws of 1982 and RCW 74.20.040; amending section 10, chapter 42, Laws of 1975-'76 2nd ex. sess. as amended by section 6, chapter 41, Laws of 1983 1st ex. sess. and RCW 26.26.090; amending section 11, chapter 42, Laws of 1975-'76 2nd ex. sess. as amended by section 7, chapter 41, Laws of 1983 1st ex. sess. and RCW 26.26.100; amending section 12, chapter 42, Laws of 1975-'76 2nd ex. sess. and RCW 26.26.110; amending section 13, chapter 42, Laws of 1975-'76 2nd ex. sess. and RCW 26.26.120; amending section 15, chapter 42, Laws of 1975-'76 2nd ex. sess. and RCW 26.26.140; amending section 3, chapter 164, Laws of 1971 ex. sess. as last amended by section 4, chapter 171, Laws of 1979 ex. sess. and RCW 74.20A.030; amending section 18, chapter 171, Laws of 1979 ex. sess. and RCW 74.20A.270; adding a new section to chapter 6.12 RCW; adding a new chapter to Title 26 RCW; adding a new section to chapter 26.09 RCW; adding a new section to chapter 26.20 RCW; adding a new section to chapter 26.21 RCW; adding a new section to chapter 26.26 RCW; creating new sections; repealing section 2, chapter 28, Laws of 1913, section 1, chapter 297, Laws of 1927, section 35, chapter 154, Laws of 1973 1st ex. sess. and RCW 26.20.050; and prescribing penalties.

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

NEW SECTION. Sec. 1. The legislature finds that there is an urgent need for vigorous enforcement of child support obligations, and that stronger and more efficient statutory remedies need to be established to supplement and complement the remedies provided in chapters 26.09, 26.21, 26.26, 74.20, and 74.20A RCW.

NEW SECTION. Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Dependent child" means any child for whom a support order has been established or for whom a duty of support is owed.

(2) "Duty of support" means the duty to provide for the needs of a dependent child, which may include necessary food, clothing, shelter, education, and health care. The duty includes any obligation to make monetary payments, to pay expenses, or to reimburse another person or an agency for the cost of necessary support furnished a dependent child. The duty may be imposed by court order, by operation of law, or otherwise.

(3) "Obligee" means the custodian of a dependent child, or person or agency, to whom a duty of support is owed, or the person or agency to whom the right to receive or collect support has been assigned.

(4) "Obligor" means the person owing a duty of support.

(5) "Support order" means any judgment, decree, or order of support issued by the superior court or authorized agency of the state of Washington; or a judgment, decree, or other order of support issued by a court or agency of competent jurisdiction in another state or country, which has been registered or otherwise made enforceable in this state.

(6) "Employer" includes the United States government, a state or local unit of government, and any person or entity who pays or owes earnings to the obligor.

(7) "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy support

obligations, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(8) "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of any amount required by law to be withheld.

NEW SECTION. Sec. 3. (1) The remedies provided in this chapter are in addition to, and not in substitution for, any other remedies provided by law.

(2) This chapter applies to any dependent child, whether born before or after the effective date of this act, and regardless of the past or current marital status of the parents.

(3) This chapter shall be liberally construed to assure that all dependent children are adequately supported.

NEW SECTION. Sec. 4. (1) A proceeding to enforce a duty of support is commenced:

(a) By filing a petition for an original action; or

(b) By motion in an existing action or under an existing cause number.

(2) Venue for the action is in the superior court of the county where the dependent child resides or is present, where the obligor resides, or where the prior support order was entered. The petition or motion may be filed by the obligee, the state, or any agency providing care or support to the dependent child. A filing fee shall not be assessed in cases brought on behalf of the state of Washington.

(3) The court retains continuing jurisdiction under this chapter until all duties of support of the obligor, including arrearages, with respect to the dependent child have been satisfied.

NEW SECTION. Sec. 5. (1) A petition or motion may be filed without notice under section 4 of this act to initiate a contempt action if an obligor fails to comply with a support order. If the court finds there is reasonable cause to believe the obligor has failed to comply with a support order, the court may issue an order to show cause requiring the obligor to appear at a certain time and place for a hearing, at which time the obligor may appear to show cause why the relief requested should not be granted. A copy of the petition or motion shall be served on the obligor along with the order to show cause.

(2) Service of the order to show cause shall be by personal service, or in the manner provided in the civil rules of superior court or applicable statute.

(3) If the order to show cause served upon the obligor included a warning that an arrest warrant could be issued for failure to appear, the

court may issue a bench warrant for the arrest of the obligor if the obligor fails to appear on the return date provided in the order.

(4) If the court finds, after hearing, that the obligor failed to comply with the support order previously entered and that the obligor has not established that he or she was unable to comply with the order, the court shall find the obligor in contempt of court. Contempt under this section is punishable by imprisonment in the county jail for a term of up to one hundred eighty days. The court may suspend all or a part of the sentence upon terms that are reasonably likely to result in compliance with the support order.

(5) If the obligor contends at the hearing that he or she lacked the means to comply with the support order, the obligor shall establish that he or she exercised due diligence in seeking employment, in conserving assets, or otherwise in rendering himself or herself able to comply with the court's order.

NEW SECTION. Sec. 6. (1) Every court order or decree establishing a child support obligation or duty of support shall state that, if a support payment is more than fifteen days past due in an amount equal to or greater than the support payable for one month, the obligee may seek a mandatory wage assignment without prior notice to the obligor. Failure to include this provision does not affect the validity of the support order.

(2) If the support order under which the obligor owes the duty of support is not in compliance with subsection (1) of this section or if the obligee cannot show that the obligor has approved or received a copy of the court order or decree that complies with subsection (1) of this section, then notice shall be provided to the obligor at least fifteen days prior to the obligee seeking a mandatory wage assignment. The notice shall state that, if a child support payment is more than fifteen days past due in an amount equal to or greater than the support payable for one month, the obligee may seek a mandatory wage assignment without further notice to the obligor. Service of the notice shall be by personal service, or by any form of mail requiring a return receipt. The notice requirement under this subsection is not jurisdictional.

NEW SECTION. Sec. 7. (1) A petition or motion seeking a mandatory wage assignment in an action under section 4 of this act may be filed by an obligee if the obligor is more than fifteen days past due in child support payments in an amount equal to or greater than the support payable for one month. The petition or motion shall include a sworn statement by the obligee, stating the facts authorizing the issuance of the wage assignment order, including:

(a) That the obligor, stating his or her name and residence, is more than fifteen days past due in child support payments in an amount equal to or greater than the support payable for one month;

(b) A description of the terms of the support order requiring payment of support, and the amount past due;

(c) The name and address of the obligor's employer;

(d) That notice has been provided to the obligor as required by section 6 of this act; and

(e) In cases not filed by the state, whether the obligee has received public assistance from any source and, if the obligee has received public assistance, that the department of social and health services has been notified in writing of the pending action.

(2) If the court in which a mandatory wage assignment is sought does not already have a copy of the support order in the court file, then the obligee shall attach a copy of the support order to the petition or motion seeking the wage assignment.

NEW SECTION. Sec. 8. Upon receipt of a petition or motion seeking a mandatory wage assignment that complies with section 7 of this act, the court shall issue a wage assignment order, as provided in section 10 of this act and including the information required in section 9(1) of this act, directed to the employer, and commanding the employer to answer the order on the forms served with the order that comply with section 12 of this act within twenty days after service of the order upon the employer.

NEW SECTION. Sec. 9. (1) The wage assignment order in section 8 of this act shall include:

(a) The maximum amount of current support, if any, to be withheld from the obligor's earnings each month, or from each earnings disbursement; and

(b) The total amount of the arrearage or reimbursement judgment previously entered by the court, if any, together with interest, if any.

(2) The total amount to be withheld from the obligor's earnings each month, or from each earnings disbursement, shall not exceed fifty percent of the disposable earnings of the obligor. If the amounts to be paid toward the arrearage are specified in the support order, then the maximum amount to be withheld is the sum of the current support ordered and the amount ordered to be paid toward the arrearage, or fifty percent of the disposable earnings of the obligor, whichever is less.

(3) The provisions of RCW 7.33.280 do not apply to wage assignments for child support authorized under this chapter, but fifty percent of the disposable earnings of the obligor are exempt, and may be disbursed to the obligor.

(4) If an obligor is subject to two or more attachments for child support on account of different obligees, the employer shall, if the nonexempt portion of the obligor's earnings is not sufficient to respond fully to all the attachments, apportion the obligor's nonexempt disposable earnings between or among the various obligees equally. Any obligee may seek a court order reapportioning the obligor's nonexempt disposable earnings upon notice to all interested obligees. Notice shall be by personal service, or in the manner provided by the civil rules of superior court or applicable statute.

NEW SECTION. Sec. 10. The wage assignment order shall be substantially in the following form:

IN THE SUPERIOR COURT OF THE STATE OF  
WASHINGTON IN AND FOR THE COUNTY OF

.....,	
Obligee	No. ....
vs.	
.....,	WAGE ASSIGNMENT
Obligor	ORDER
.....,	
Employer	
THE STATE OF WASHINGTON TO: .....	Employer
AND TO: .....	Obligor

The above-named obligee claims that the above-named obligor is more than fifteen days past due in child support payments in an amount equal to or greater than the child support payable for one month. The amount of the accrued child support debt as of this date is ..... dollars, the amount of arrearage payments specified in the support order (if applicable) is ..... dollars per ....., and the amount of the current and continuing support obligation under the support order is ..... dollars per .....

You are hereby commanded to answer this order by filling in the attached form according to the instructions, and you must mail or deliver the original of the answer to the court, one copy to the obligee or obligee's attorney, and one copy to the obligor within twenty days after service of this wage assignment order upon you.

If you possess any earnings due and owing to the obligor, then you shall do as follows:

- (1) Withhold from the obligor's earnings each month, or from each regular earnings disbursement, the lesser of:
  - (a) The sum of the accrued support debt and the current support obligation;
  - (b) The sum of the specified arrearage payment amount and the current support obligation; or
  - (c) Fifty percent of the disposable earnings of the obligor.
- (2) The total amount withheld above is subject to the wage assignment order, and all other sums may be disbursed to the obligor.

You shall continue to withhold the ordered amounts from nonexempt earnings of the obligor until notified by the court that the wage assignment

has been modified or terminated. You shall promptly notify the court if and when the employee is no longer employed by you.

You shall deliver the withheld earnings to the clerk of the court that issued this wage assignment order at each regular pay interval, but the first delivery shall occur no sooner than twenty days after your receipt of this wage assignment order.

You shall deliver a copy of this order to the obligor as soon as is reasonably possible. This wage assignment order has priority over any other wage assignment or garnishment, except for another wage assignment or garnishment for child support, or order to withhold or deliver under chapter 74.20A RCW.

**WHETHER OR NOT YOU OWE ANYTHING TO THE OBLIGOR, YOUR FAILURE TO ANSWER AS REQUIRED MAY MAKE YOU LIABLE FOR OBLIGOR'S CLAIMED SUPPORT DEBT TO THE OBLIGEE OR SUBJECT TO CONTEMPT OF COURT.**

**NOTICE TO OBLIGOR: YOU HAVE A RIGHT TO REQUEST A HEARING IN THE SUPERIOR COURT THAT ISSUED THIS WAGE ASSIGNMENT ORDER, TO REQUEST THAT THE COURT QUASH, MODIFY, OR TERMINATE THE WAGE ASSIGNMENT ORDER.**

DATED THIS ... day of ..., 19 ....

.....

Obligee,  
or obligee's attorney

.....

Judge/Court Commissioner

**NEW SECTION.** Sec. 11. (1) An employer upon whom service of a wage assignment order has been made shall answer the order by sworn affidavit within twenty days after the date of service. The answer shall state whether the obligor is employed by or receives earnings from the employer, whether the employer will honor the wage assignment order, and whether there are multiple child support attachments against the obligor.

(2) If the employer possesses any earnings due and owing to the obligor, the earnings subject to the wage assignment order shall be withheld immediately upon receipt of the wage assignment order. The withheld earnings shall be delivered to the clerk of the court that issued the wage assignment order at each regular pay interval, but the first delivery shall occur no sooner than twenty days after receipt of the wage assignment order.

(3) The employer shall continue to withhold the ordered amounts from nonexempt earnings of the obligor until notified by the court that the wage assignment has been modified or terminated. The employer shall promptly notify the court when the employee is no longer employed.

(4) The employer may deduct a processing fee from the remainder of the employee's earnings after withholding under the wage assignment order, even if the remainder is exempt under section 9 of this act. The processing fee may not exceed (a) ten dollars for the first disbursement made by the employer to the superior court clerk; and (b) one dollar for each subsequent disbursement to the clerk.

(5) An order for wage assignment for support entered under this chapter shall have priority over any other wage assignment or garnishment, except for another wage assignment or garnishment for child support, or order to withhold and deliver under chapter 74.20A RCW.

(6) An employer who fails to withhold earnings as required by a wage assignment issued under this chapter may be held liable for the amounts disbursed to the obligor in violation of the wage assignment order, and may be found by the court to be in contempt of court and may be punished as provided by law.

(7) No employer who complies with a wage assignment issued under this chapter may be liable to the employee for wrongful withholding.

(8) No employer may discharge, discipline, or refuse to hire an employee because of the entry or service of a wage assignment issued and executed under this chapter. A person who violates this subsection may be found by the court to be in contempt of court and may be punished as provided by law.

(9) An employer may combine amounts withheld from various employees into a single payment to the superior court clerk, if the payment includes a listing of the amounts attributable to each employee and other information as required by the clerk.

(10) An employer shall deliver a copy of the wage assignment order to the obligor as soon as is reasonably possible.

NEW SECTION. Sec. 12. The answer of the employer shall be made on forms, served on the employer with the wage assignment order, substantially as follows:

IN THE SUPERIOR COURT OF THE STATE OF  
WASHINGTON IN AND FOR THE COUNTY OF

.....	No. ....
Obligee	
vs.	ANSWER TO
.....	WAGE ASSIGNMENT
Obligor	ORDER
.....	
Employer	





**NEW SECTION.** Sec. 14. In a hearing to quash, modify, or terminate the wage assignment order, the court may grant relief only upon a showing that the wage assignment order causes extreme hardship or substantial injustice. Satisfaction by the obligor of all past due payments subsequent to the issuance of the wage assignment order is not grounds to quash, modify, or terminate the wage assignment order. If a wage assignment order has been in operation for twelve consecutive months and the obligor's support obligation is current, the court may terminate the order upon motion of the obligor unless the obligee can show good cause as to why the wage assignment order should remain in effect.

**NEW SECTION.** Sec. 15. (1) In any action to enforce a support order under Title 26 RCW, the court may, in its discretion, order a parent obligated to pay support for a minor child to post a bond or other security with the court. The bond or other security shall be in the amount of support due for a two-year period. The bond or other security is subject to approval by the court. The bond shall include the name and address of the issuer. If the bond is canceled, any person issuing a bond under this section shall notify the court and the person entitled to receive payment under the order.

(2) If the parent obligated to pay support fails to make payments as required under the court order, the person entitled to receive payment may recover on the bond or other security in the existing proceeding. The court may, after notice and hearing, increase the amount of the bond or other security. Failure to comply with the court's order to obtain and maintain a bond or other security may be treated as contempt of court.

Sec. 16. Section 1, chapter 10, Laws of 1982 and RCW 6.12.100 are each amended to read as follows:

The homestead is subject to execution or forced sale in satisfaction of judgments obtained:

(1) On debts secured by mechanic's, laborer's, materialmen's or vendor's liens upon the premises;

(2) On debts secured by purchase money security agreements describing as collateral a mobile home located on the premises or mortgages on the premises, executed and acknowledged by the husband and wife or by any unmarried claimant;

(3) On one spouse's or the community's debts existing at the time of that spouse's bankruptcy filing where (a) bankruptcy is filed by both spouses within a six-month period, including as a joint case under 11 U.S.C. Sec. 302, and (b) the other spouse exempts property from property of the estate under the federal exemption provisions of 11 U.S.C. Sec. 522(b)(1);

(4) On debts arising from a lawful court order or decree or administrative order establishing a child support obligation or obligation to pay spousal maintenance.

Sec. 17. Section 11.52.010, chapter 145, Laws of 1965 as last amended by section 7, chapter 117, Laws of 1974 ex. sess. and RCW 11.52.010 are each amended to read as follows:

If it is made to appear to the satisfaction of the court that no homestead has been claimed in the manner provided by law, either prior or subsequent to the death of the person whose estate is being administered, then the court, after hearing and upon being satisfied that the funeral expenses, expenses of last sickness and of administration have been paid or provided for, and upon petition for that purpose, shall award and set off to the surviving spouse, if any, property of the estate, either community or separate, not exceeding the value of twenty-five thousand dollars at the time of death, exclusive of general taxes and special assessments which were liens at the time of the death of the deceased spouse, ~~((and))~~ exclusive of the unpaid balance of any contract to purchase, mortgage, or mechanic's, laborer's or materialmen's liens upon the property so set off, exclusive of debts arising out of a lawful court order or decree or administrative order establishing a child support obligation or obligation to pay spousal maintenance and exclusive of funeral expenses, expenses of last sickness and administration, which expenses may be deducted from the gross value in determining the value to be set off to the surviving spouse; provided that the court shall have no jurisdiction to make such award unless the petition therefor is filed with the clerk within six years from the date of the death of the person whose estate is being administered.

Sec. 18. Section 11.52.012, chapter 145, Laws of 1965 as last amended by section 9, chapter 234, Laws of 1977 ex. sess. and RCW 11.52.012 are each amended to read as follows:

Such award shall be made by an order or judgment of the court and shall vest the absolute title, and thereafter there shall be no further administration upon such portion of the estate so set off, but the remainder of the estate shall be settled as other estates: PROVIDED, That no property of the estate shall be awarded or set off, as provided in RCW 11.52.010 through 11.52.024, as now or hereafter amended, to a surviving spouse who has feloniously killed the deceased spouse: PROVIDED FURTHER, That if it shall appear to the court, either (1) that there are children of the deceased by a former marriage or by adoption prior to decedent's marriage to petitioner, or (2) that the petitioning surviving spouse has abandoned his or her minor children or wilfully and wrongfully failed to provide for them, or (3) if such surviving spouse or minor children are entitled to receive property not subject to probate, including insurance, by reason of the death of the deceased spouse in the sum of twenty-five thousand dollars, or more, then the award in lieu of homestead and exemptions shall lie in the discretion of the court, and that whether there shall be an award and the amount thereof shall be determined by the court, which shall enter such decree as shall be just and equitable but not in excess of the award provided herein.

Sec. 19. Section 11.52.020, chapter 145, Laws of 1965 as last amended by section 9, chapter 117, Laws of 1974 ex. sess. and RCW 11.52.020 are each amended to read as follows:

In event a homestead has been, or shall be selected in the manner provided by law, whether the selection of such homestead results in vesting the complete or partial title in the survivor, it shall be the duty of the court, upon petition of any person interested, and upon being satisfied that the value thereof does not exceed twenty-five thousand dollars at the time of the death, exclusive of general taxes and special assessments which were liens at the time of the death of the deceased and exclusive of the unpaid balance of any contract to purchase, mortgage, or mechanic's, laborer's, or materialmen's liens thereon, and exclusive of funeral expenses, expenses of last sickness and of administration, which expenses may be deducted from the gross value in determining the value to be set off to the surviving spouse, to enter a decree, upon notice as provided in RCW 11.52.014 or upon longer notice if the court so orders, setting off and awarding such homestead to the survivor, thereby vesting the title thereto in fee simple in the survivor: PROVIDED, That if there be any incompetent heirs of the decedent, the court shall appoint a guardian ad litem for such incompetent heir who shall appear at the hearing and represent the interest of such incompetent heir.

Sec. 20. Section 11.52.022, chapter 145, Laws of 1965 as last amended by section 10, chapter 234, Laws of 1977 ex. sess. and RCW 11.52.022 are each amended to read as follows:

If the value of the homestead, exclusive of all such liens, be less than twenty-five thousand dollars, the court, upon being satisfied that the funeral expenses, expenses of last sickness and of administration, have been paid or provided for, shall set off and award additional property, either separate or community, in lieu of such deficiency, so that the value of the homestead, exclusive of all such liens and expenses when added to the value of the other property awarded, exclusive of all such liens and expenses shall equal twenty-five thousand dollars: PROVIDED, That if it shall appear to the court, either (1) that there are children of the deceased by a former marriage or by adoption prior to decedent's marriage to petitioner, or (2) that the petitioning surviving spouse has abandoned his or her minor children or wilfully and wrongfully failed to provide for them, or (3) that such surviving spouse is, or any minor child entitled to an award under RCW 11.52.030 is, entitled to receive property not subject to probate, including insurance by reason of the death of the deceased spouse in the sum of twenty-five thousand dollars, or more, then the award of property in addition to the homestead, where the homestead is of less than twenty-five thousand dollars in value, shall lie in the discretion of the court, and that whether there shall be an award in addition to the homestead and the amount thereof shall be determined by the court, which shall enter such decree as shall be just and equitable, but not in excess of the award provided herein.

NEW SECTION. Sec. 21. There is added to chapter 26.09 RCW a new section to read as follows:

Every court order or decree establishing a child support obligation shall state that, if a support payment is more than fifteen days past due in an amount equal to or greater than the support payable for one month, the obligee of the support payments may seek a mandatory wage assignment under chapter 26. \_\_ RCW (sections 1 through 15, 24, and 25 of this act) without prior notice to the obligor. Failure to include this provision does not affect the validity of the support order. If the social security number of the person obligated to make child support payments under the support order or decree is available, the court shall require that the social security number of the obligor be included in the order or decree.

NEW SECTION. Sec. 22. There is added to chapter 26.21 RCW a new section to read as follows:

Every court order or decree establishing a child support obligation shall state that, if a support payment is more than fifteen days past due in an amount equal to or greater than the support payable for one month, the obligee of the support payments may seek a mandatory wage assignment under chapter 26. \_\_ RCW (sections 1 through 15, 24, and 25 of this act) without prior notice to the obligor. Failure to include this provision does not affect the validity of the support order. If the social security number of the person obligated to make child support payments under the support order or decree is available, the court shall require that the social security number of the obligor be included in the order or decree.

NEW SECTION. Sec. 23. There is added to chapter 26.26 RCW a new section to read as follows:

Every court order or decree establishing a child support obligation shall state that, if a support payment is more than fifteen days past due in an amount equal to or greater than the support payable for one month, the obligee of the support payments may seek a mandatory wage assignment under chapter 26. \_\_ RCW (sections 1 through 15, 24, and 25 of this act) without prior notice to the obligor. Failure to include this provision does not affect the validity of the support order. If the social security number of the person obligated to make child support payments under the support order or decree is available, the court shall require that the social security number of the obligor be included in the order or decree.

NEW SECTION. Sec. 24. Nothing in this chapter limits the authority of the attorney general or prosecuting attorney to use any and all civil and criminal remedies to enforce child support obligations regardless of whether or not the custodial parent receives public assistance payments.

NEW SECTION. Sec. 25. In any action to enforce a support order under this chapter, the prevailing party is entitled to a recovery of costs, including an award for reasonable attorney fees. An obligor may not be considered a prevailing party under this section unless the obligee has acted in bad faith in connection with the proceeding in question.

Sec. 26. Section 1, chapter 28, Laws of 1913 as last amended by section 34, chapter 154, Laws of 1973 1st ex. sess. and RCW 26.20.030 are each amended to read as follows:

(1) ~~((Every))~~ Any person who~~(:~~

~~(a))~~ has a child dependent upon him or her for care, education or support and deserts such child in any manner whatever with intent to abandon it~~(;or))~~ is guilty of the crime of family abandonment.

~~((b) Wilfully omits, without lawful excuse, to furnish necessary food, clothing, shelter, or medical attendance for his or her child or stepchild or children or stepchildren or ward or wards. PROVIDED, That with regard to stepchildren the obligation shall cease upon termination of the relationship of husband and wife; or~~

~~(c) Has sufficient ability to provide for support of such person's spouse or is able to earn the means for such person's spouse support and wilfully abandons and leaves such person's spouse in a destitute condition; or who refuses or neglects to provide such person's spouse with necessary food, clothing, shelter, or medical attendance, unless the abandonment is justified by misconduct of the abandoned spouse, shall be guilty of the crime of family desertion or nonsupport.~~

~~(2) When children are involved under the age of sixteen years, such act shall be a felony and punished by imprisonment in the state penitentiary for not more than twenty years or by imprisonment in the county jail for not more than one year or by fine of not more than one thousand dollars or by both fine and imprisonment:~~

~~(3) When there is no child under sixteen years, such act shall be a gross misdemeanor and shall be punished by imprisonment in the county jail for not more than one year or by fine of not more than one thousand dollars; or by both fine and imprisonment.))~~

(2) The crime of family abandonment is a class C felony under chapter 9A.20 RCW.

NEW SECTION. Sec. 27. There is added to chapter 26.20 RCW a new section to read as follows:

(1) Any person who is able to provide support, or has the ability to earn the means to provide support, and who:

(a) Wilfully omits to provide necessary food, clothing, shelter, or medical attendance to a child dependent upon him or her; or

(b) Wilfully omits to provide necessary food, clothing, shelter, or medical attendance to his or her spouse,  
is guilty of the crime of family nonsupport.

(2) The crime of family nonsupport is a gross misdemeanor under chapter 9A.20 RCW.

Sec. 28. Section 3, chapter 28, Laws of 1913 as amended by section 36, chapter 154, Laws of 1973 1st ex. sess. and RCW 26.20.080 are each amended to read as follows:

Proof of the ~~((abandonment or))~~ nonsupport of a spouse~~((;))~~ or ~~((the desertion))~~ of a child or children, ~~((ward or wards;))~~ or the omission to furnish necessary food, clothing, shelter, or medical attendance for a spouse, or for a child or children, ~~((ward or wards;))~~ is prima facie evidence that ~~((such abandonment or))~~ the nonsupport~~((;))~~ or omission to furnish food, clothing, shelter, or medical attendance is wilful. The provisions of RCW 26.20.030 ~~((as now or hereafter amended))~~ and section 27 of this 1984 act are applicable ~~((whether the parents of such child or children are married or divorced and regardless of any decree made in said divorce action relative to alimony or to the support of the spouse or child or children))~~ regardless of the marital status of the person who has a child dependent upon him or her, and regardless of the nonexistence of any decree requiring payment of support or maintenance.

Sec. 29. Section 5, chapter 322, Laws of 1959 as last amended by section 20, chapter 201, Laws of 1982 and RCW 74.20.040 are each amended to read as follows:

(1) Whenever the department of social and health services receives an application for public assistance on behalf of a child, the department shall take appropriate action under the provisions of this chapter, chapter 74.20A RCW, or other appropriate statutes of this state to establish or enforce support obligations against the parent or other persons owing a duty to pay support moneys.

~~((The department shall collect data from cases of support under RCW 74.20.270 where there is no court-ordered support obligation. Such data shall include: income characteristics of those obligated to pay support, obligation established, and resulting payments. The department shall report its findings to the appropriate legislative committees by January 1, 1983. The department shall reconsider its administrative standards under RCW 74.20.270 in light of relevant data and shall, to the extent feasible without substantial impact on aid to families with dependent children, bring those standards into conformity with payment standards based on actual experience.))~~

(2) The secretary may accept applications for support enforcement services on behalf of persons who are not recipients of public assistance and may take action ~~((as he deems appropriate))~~ in appropriate cases to establish or enforce support obligations against the parent or other persons owing a duty to pay moneys. Applications accepted under this section may be conditioned upon the payment of a fee as required through regulation issued by the secretary. Action may be taken under the provisions of chapter 74.20

RCW, the abandonment or nonsupport statutes, or other appropriate statutes of this state, including but not limited to remedies established in chapter 74.20A RCW, to establish and enforce said support obligations. The secretary may establish by regulation, such reasonable standards as ~~((he deems))~~ may be necessary to limit applications for support enforcement services. Said standards shall take into account the income, property, or other resources already available to support said person for whom a support obligation exists.

(3) The secretary may ~~((charge))~~ collect a fee from the person obligated to pay support to compensate the department for services rendered in establishment of or enforcement of support obligations. This fee shall be ~~((agreed on in writing with the custodian or guardian of the person for whom a support obligation is owed, or that person if no custodian or guardian exists and shall be))~~ limited to not more than ten percent of any support money collected as a result of action taken by the secretary. The fee charged shall be in addition to the support obligation. In no event may the fee be collected by the department of social and health services until all current support obligations have been satisfied. The secretary shall by regulation establish reasonable fees for support enforcement services and said schedule of fees shall be made available to ~~((all applicants for support enforcement services))~~ any person obligated to pay support. The secretary may, on showing of necessity, waive or defer any such fee.

(4) ~~((The secretary may impose a fee on the individual who owes a child support or spousal support obligation with respect to all such child and spousal support obligations for which collection is made on behalf of persons who are not recipients of public assistance.))~~ Fees, due and owing, may be collected as delinquent support moneys utilizing any of the remedies in chapter 74.20 RCW, chapter 74.20A RCW, chapter 26.21 RCW, or any other remedy at law or equity available to the department or any agencies with whom it has a cooperative or contractual arrangement to establish, enforce, or collect support moneys or support obligations.

(5) The secretary may waive the fee, or any portion thereof, as a part of a compromise of disputed claims or may grant partial or total charge off of said fee if the secretary finds there are no available, practical, or lawful means by which said fee may be collected or to facilitate payment of the amount of delinquent support moneys owed.

NEW SECTION. Sec. 30. There is added to chapter 6.12 RCW a new section to read as follows:

When a homestead declaration occurs before a judgment, the judgment creditor has a lien on the value of the property in excess of the homestead exemption. This lien commences when the judgment creditor records the judgment with the auditor of the county where the property is located.



Sec. 31. Section 10, chapter 42, Laws of 1975-'76 2nd ex. sess. as amended by section 6, chapter 41, Laws of 1983 1st ex. sess. and RCW 26.26.090 are each amended to read as follows:

(1) The child shall be made a party to the action. If the child is a minor, the child shall be represented by the child's general guardian or a guardian ad litem appointed by the court subject to RCW 74.20.310. The child's mother or father may not represent the child as guardian or otherwise. The natural mother, each man presumed to be the father under RCW 26.26.040, and ~~((each))~~ a man or men alleged to be the natural father~~(;)~~ shall be made parties or, if not subject to the jurisdiction of the court, shall, if possible, be given actual notice of the action ((in a manner prescribed by the court)) and an opportunity to be heard in a manner as the court may prescribe. ((The court may align the parties:))

(2) Any party may cause to be joined as additional parties other men alleged to be the father of the child or any other person necessary for a full adjudication of the issues.

(3) The failure or inability to join as a party an alleged or presumed father does not deprive the court of jurisdiction to adjudicate some or all of the issues based on the evidence and parties available to it.

(4) If more than one party is alleged to be the father of the child, the default of a party shall not preclude the court from finding any other party to be the father of the child.

Sec. 32. Section 11, chapter 42, Laws of 1975-'76 2nd ex. sess. as amended by section 7, chapter 41, Laws of 1983 1st ex. sess. and RCW 26.26.100 are each amended to read as follows:

(1) The court may, and upon request of a party shall, require the child, mother, and ~~((a presumed or))~~ any alleged father who has been made a party to submit to blood tests. If an alleged father objects to a proposed order requiring him to submit to paternity blood tests, the court may require the party making the allegation of possible paternity to provide sworn testimony, by affidavit or otherwise, stating the facts upon which the allegation is based. The court shall order blood tests if it appears that a reasonable possibility exists that the requisite sexual contact occurred. The tests shall be performed by an expert in paternity blood testing appointed by the court. The expert's verified report identifying the blood characteristics observed is admissible in evidence in any hearing or trial in the parentage action, if (a) the alleged or presumed father has had the opportunity to gain information about the security, validity, and interpretation of the tests and the qualifications of any experts, and (b) the report is accompanied by an affidavit from the expert which describes the expert's qualifications as an expert and analyzes and interprets the results. Verified documentation of the chain of custody of the blood samples tested is admissible to establish the chain of custody. The court may consider published sources as aids to interpretation of the test results.

~~((2))~~ (3) The court, upon ~~((reasonable))~~ request by a party, shall order that additional blood tests be performed by the same or other experts qualified in paternity blood testing, if the party requesting additional tests advances the full costs of the additional testing within a reasonable time. The court may order additional testing without requiring that the requesting party advance the costs only if another party agrees to advance the costs or if the court finds, after hearing, that (a) the requesting party is indigent, and (b) the laboratory performing the initial tests recommends additional testing or there is substantial evidence to support a finding as to paternity contrary to the initial blood test results. The court may later order any other party to reimburse the party who advanced the costs of additional testing for all or a portion of the costs.

~~((3))~~ (4) In all cases, the court shall determine the number and qualifications of the experts.

Sec. 33. Section 12, chapter 42, Laws of 1975-'76 2nd ex. sess. and RCW 26.26.110 are each amended to read as follows:

Evidence relating to paternity may include:

(1) Evidence of sexual intercourse between the mother and alleged father at any possible time of conception;

(2) An expert's opinion concerning the statistical probability of the alleged father's paternity based upon the duration of the mother's pregnancy;

(3) An expert's opinion concerning the impossibility or the statistical probability of the alleged father's paternity based upon blood test results~~((; weighted in accordance with evidence, if available, of the statistical probability of the alleged father's paternity))~~;

(4) Medical or anthropological evidence relating to the alleged father's paternity of the child based on tests performed by experts. If a man has been identified as a possible father of the child, the court may, and upon request of a party shall, require the child, the mother, and the man to submit to appropriate tests; and

(5) All other evidence relevant to the issue of paternity of the child.

Sec. 34. Section 13, chapter 42, Laws of 1975-'76 2nd ex. sess. and RCW 26.26.120 are each amended to read as follows:

(1) An action under this chapter is a civil action governed by the rules of civil procedures. The mother of the child and the alleged father are competent to testify and may be compelled to testify.

(2) Upon refusal of any witness, including a party, to testify under oath or produce evidence of any other kind on the ground that ~~((he))~~ the witness may be incriminated thereby, and if a prosecuting attorney requests the court to order that person to testify or provide the evidence, the court shall then hold a hearing and shall so order, unless it finds that to do so would be clearly contrary to the public interest, and that person shall comply with the order.

If, but for this section, ~~((he))~~ the witness would have been privileged to withhold the answer given or the evidence produced ~~((by him))~~, the witness may not refuse to comply with the order on the basis of ~~((his))~~ the privilege against self-incrimination; but ~~((he))~~ the witness shall not be prosecuted or subjected to criminal penalty or forfeiture for or on account of any transaction, matter, or fact concerning which ~~((he))~~ the witness has been ordered to testify pursuant to this section. ~~((He))~~ The witness may nevertheless be prosecuted for failing to comply with the order to answer, or for perjury or for offering false evidence to the court.

(3) Testimony of a physician concerning the medical circumstances of the pregnancy and the condition and characteristics of the child upon birth is not privileged.

(4) In an action against an alleged father, evidence offered by ~~((him))~~ the alleged father with respect to a man who ~~((is not subject to the jurisdiction of the court))~~ has not been joined as a party concerning ((his)) the nonparty's sexual intercourse with the mother at or about the probable time of conception of the child is admissible in evidence only if ((he)) the nonparty has undergone and made available to the court blood tests, including the human leukocyte antigen (HLA) test or other tests of comparable exclusionary power, the results of which do not exclude the possibility of ((his)) the nonparty's paternity of the child. ((A man who is identified and is subject to the jurisdiction of the court shall be made a defendant in the action.))

(5) The trial shall be by the court without a jury.

Sec. 35. Section 15, chapter 42, Laws of 1975-'76 2nd ex. sess. and RCW 26.26.140 are each amended to read as follows:

The court may order reasonable fees of ~~((counsel;))~~ experts((;)) and the child's guardian ad litem, and other costs of the action, including blood test~~((s))~~ costs, to be paid by the parties in proportions and at times determined by the court. The court may order that all or a portion of a party's reasonable attorney's fees be paid by another party, except that an award of attorney's fees assessed against the state or any of its agencies or representatives shall be under RCW 4.84.185.

NEW SECTION. Sec. 36. A joint legislative committee on child support is hereby created. The committee shall be composed of eleven members, five to be appointed by the speaker of the house of representatives and five to be appointed by the president of the senate. Three of the members from each house shall be from the majority party and two from the minority party. The eleventh member shall be a member of the public and shall be appointed by a majority of the legislative committee members. The nonlegislative member of the joint committee shall not receive compensation but

shall be reimbursed under RCW 43.03.050 and 43.03.060 for travel expenses incurred while attending official meetings of the committee. The legislative members shall be reimbursed for travel expenses under RCW 44.04.120.

NEW SECTION. Sec. 37. The joint committee on child support shall examine, investigate, and study the operation of the state's child support system. The primary purpose of the study shall be to determine the system's success in securing support and parental involvement both for children who are eligible for aid under Part A of Title IV of the Social Security Act and children who are not eligible for the aid. The joint committee shall give particular attention to the recommendations which were made at the October, 1983 legislative conference on child support and paternity.

NEW SECTION. Sec. 38. The joint committee shall submit to the social and health services committees of the house of representatives and the senate and make available to the public, no later than October 1, 1985, a report of its findings and recommendations.

NEW SECTION. Sec. 39. Sections 36 through 38 of this act shall expire on December 31, 1986.

Sec. 40. Section 3, chapter 164, Laws of 1971 ex. sess. as last amended by section 4, chapter 171, Laws of 1979 ex. sess. and RCW 74.20A.030 are each amended to read as follows:

The department shall be subrogated to the right of any dependent child or children or person having the care, custody, and control of said child or children, if public assistance money is paid to or for the benefit of the child, to prosecute or maintain any support action or execute any administrative remedy existing under the laws of the state of Washington to obtain reimbursement of moneys expended, based on the support obligation of the responsible parent established by a superior court order or RCW 26.16.205.

No collection shall be made from a parent or other person who is the recipient of public assistance moneys while such person or persons are in such status except as provided in RCW 74.20A.270.

No collection action shall be taken against parents of children eligible for admission to, or children who have been released from, a state school for the developmentally disabled as defined by chapter 72.33 RCW.

Sec. 41. Section 18, chapter 171, Laws of 1979 ex. sess. and RCW 74.20A.270 are each amended to read as follows:

The secretary may issue a notice of support debt to any person, firm, corporation, association or political subdivision of the state of Washington or any officer or agent thereof who is in possession of support moneys, or who has had support moneys in his or her possession at some time in the past, which support moneys were or are claimed by the department as the property of the department by assignment, subrogation, or by operation of

law or legal process under chapter 74.20A RCW, if the support moneys have not been remitted to the department as required by law.

The notice shall describe the claim of the department, stating the legal basis for the claim and shall provide sufficient detail to enable the person, firm, corporation, association or political subdivision or officer or agent thereof upon whom service is made to identify the support moneys in issue. The notice may also make inquiry as to relevant facts necessary to the resolution of the issue.

The notice may be served by certified mail, return receipt requested, or in the manner of a summons in a civil action. Upon service of the notice all moneys not yet disbursed or spent or like moneys to be received in the future are deemed to be impounded and shall be held in trust pending answer to the notice and any hearing which is requested.

The notice shall be answered under oath and in writing within twenty days of the date of service, which answer shall include true answers to the matters inquired of in the notice. The notice shall also either acknowledge the department's right to the moneys or request an administrative hearing to determine the rights to ownership of the support moneys in issue. The hearing shall be held pursuant to this section, chapter 34.04 RCW, and the rules of the department and shall be a contested case as provided for in chapter 34.04 RCW. The burden of proof to establish ownership of the support moneys claimed, including but not limited to moneys not yet disbursed or spent, is on the department.

If no answer is made within the twenty days, the department's claim shall be assessed and determined and subject to collection action as a support debt pursuant to chapter 74.20A RCW. Any such debtor may, at any time within one year from the date of service of the notice of support debt, petition the secretary or the secretary's designee for a hearing upon a showing of any of the grounds enumerated in RCW 4.72.010 or superior court civil rule 60. A copy of the petition shall also be served on the department. The filing of the petition shall not stay any collection action being taken, but the debtor may petition the secretary or the secretary's designee for an order staying collection action pending final decision of the secretary or the secretary's designee or the courts on any appeal made pursuant to chapter 34.04 RCW. Any moneys held and/or taken by collection action prior to the date of any such stay and any support moneys claimed by the department, including moneys to be received in the future to which the department may have a claim, shall be held in trust pending final decision and appeal, if any, to be disbursed in accordance with the final decision. The secretary or the secretary's designee shall condition the stay to provide for the trust.

If the hearing is granted it shall be an administrative hearing limited to the determination of the ownership of the moneys claimed in the notice of debt. The right to the hearing is conditioned upon holding of any funds not

yet disbursed or expended or to be received in the future in trust pending the final order in these proceedings or during any appeal made to the courts. The secretary or the secretary's designee shall enter an appropriate order providing for the terms of the trust.

The hearing shall be a contested case as provided for in chapter 34.04 RCW and shall be held pursuant to this section, chapter 34.04 RCW, and the rules of the department. The hearing shall be promptly scheduled within thirty days from the date of receipt of the answer by the department. The hearing shall be conducted by a duly qualified hearing examiner appointed for that purpose. Hearings may be held in the county of residence of the debtor or other place convenient to the debtor.

If the debtor fails to appear at the hearing, the hearing examiner shall, upon showing of valid service, enter an initial decision and order declaring the amount of support moneys, as claimed in the notice, to be assessed and determined and subject to collection action. Within thirty days of entry of the decision and order the debtor may petition the secretary or the secretary's designee to vacate the decision and order upon a showing of any of the grounds enumerated in RCW 4.72.010 or superior court civil rule 60.

The hearing and review process shall be as provided for in RCW 74.20A.055.

If, at any time, the superior court enters judgment for an amount of debt at variance with the amount determined by the final order in these proceedings, the judgment shall supersede the final order in these proceedings. Any debt determined by the superior court in excess of the amount determined by the final order in these proceedings shall be the property of the department as assigned under 42 U.S.C. 602(A)(26)(a), RCW 74.20-.040, 74.20A.250, 74.20.320, or 74.20.330. The department may, despite any final order in these proceedings, take action pursuant to chapters 74.20 or 74.20A RCW to obtain such a judgment or to collect moneys determined by such a judgment to be due and owing.

If public assistance moneys have been paid to a parent for the benefit of that parent's minor dependent children, debt under this chapter shall not be incurred by nor at any time be collected from that parent because of that payment of assistance. Nothing in this section prohibits or limits the department from acting pursuant to RCW 74.20.320 and this section to assess a debt against a recipient or ex-recipient for receipt of support moneys paid in satisfaction of the debt assigned under RCW 74.20.330 which have been assigned to the department but were received by a recipient or ex-recipient from another responsible parent and not remitted to the department. To collect these wrongfully retained funds from the recipient, the department may not take collection action ((during such period of time as)) in excess of ten percent of the grant payment standard during any month the public assistance recipient remains in that status unless required by federal law.

Payments not credited against the department's debt pursuant to RCW 74-.20.101 may not be assessed or collected under this section.

NEW SECTION. Sec. 42. Sections 1 through 15, 24, and 25 of this act shall constitute a new chapter in Title 26 RCW.

NEW SECTION. Sec. 43. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 44. Section 2, chapter 28, Laws of 1913, section 1, chapter 297, Laws of 1927, section 35, chapter 154, Laws of 1973 1st ex. sess. and RCW 26.20.050 are each repealed.

Passed the House March 1, 1984.

Passed the Senate February 26, 1984.

Approved by the Governor March 28, 1984.

Filed in Office of Secretary of State March 28, 1984.

## CHAPTER 261

[Engrossed Substitute Senate Bill No. 4653]

### WASHINGTON COUNCIL FOR THE PREVENTION OF CHILD ABUSE AND NEGLECT

AN ACT Relating to children; amending section 2, chapter 4, Laws of 1982 and RCW 43.121.020; amending section 9, chapter 4, Laws of 1982 and RCW 43.121.090; amending section 10, chapter 4, Laws of 1982 and RCW 43.121.100; amending section 36.18.010, chapter 4, Laws of 1963 as last amended by section 7, chapter 15, Laws of 1982 1st ex. sess. and RCW 36.18.010; adding new sections to chapter 43.131 RCW; repealing section 1, chapter 4, Laws of 1982 and RCW 43.121.010; repealing section 2, chapter 4, Laws of 1982, section 1 of this act and RCW 43.121.020; repealing section 3, chapter 4, Laws of 1982 and RCW 43.121.030; repealing section 4, chapter 4, Laws of 1982 and RCW 43.121.040; repealing section 5, chapter 4, Laws of 1982 and RCW 43.121.050; repealing section 6, chapter 4, Laws of 1982 and RCW 43.121.060; repealing section 7, chapter 4, Laws of 1982 and RCW 43.121.070; repealing section 8, chapter 4, Laws of 1982 and RCW 43.121.080; repealing section 9, chapter 4, Laws of 1982, section 2 of this act and RCW 43.121.090; repealing section 10, chapter 4, Laws of 1982, section 3 of this act and RCW 43.121.100; repealing section 15, chapter 4, Laws of 1982 and RCW 43.121.910; repealing section 11, chapter 4, Laws of 1982 and RCW 43.121.900; and providing an expiration date.

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

Sec. 1. Section 2, chapter 4, Laws of 1982 and RCW 43.121.020 are each amended to read as follows:

(1) There is established in the executive office of the governor a Washington council ((\sigma)) for the prevention of child abuse and neglect subject to the jurisdiction of the governor. As used in this chapter, "council" means the Washington council ((\sigma)) for the prevention of child abuse and neglect.

(2) The council shall be composed of the chairperson and ten other members as follows: