

(4) "Spent nuclear fuel" means fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing.

(5) "Waste repository" means any system which is intended or may be used for the disposal or storage of radioactive waste including permanent disposal systems, interim storage systems, monitored retrievable storage systems, defense waste storage systems, test and evaluation facilities, or similar systems.

NEW SECTION. Sec. 2. A new section is added to chapter 4.24 RCW to read as follows:

(1) Operators are liable for failure to exercise ordinary and reasonable care to protect persons and property subject to injury in nuclear incidents. In addition, operators are liable for operational expenses and emergency purchases incurred by local or state governments in responding to nuclear incidents.

(2) If a nuclear incident occurs, there is a presumption that the operator of a waste repository was negligent in constructing, operating, or monitoring the waste repository, or in transporting radioactive waste, and that the operator was an actual cause of the nuclear incident. The presumption may be rebutted by a clear and convincing showing by the operator that the nuclear incident was not the result of the operator's negligence and that the operator's negligence was not an actual cause of the nuclear incident.

(3) This section does not limit the recovery of parties injured by a nuclear incident against the operators of a waste repository under theories of negligence in selecting contractors, failure to retain adequate controls over the waste repository, vicarious liability for contractors, failure to take reasonable precautionary measures with respect to inherently dangerous activities, and other negligence theories. This section does not limit the recovery of parties injured by a nuclear incident against parties other than operators of a waste facility.

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CHAPTER 276

[House Bill No. 153]

CHILD SUPPORT ENFORCEMENT

AN ACT Relating to child support enforcement; amending RCW 74.20.040, 74.20A.040, 74.20.330, 74.20A.020, 74.20A.030, 74.20A.080, 74.20A.100, 74.20A.160, 74.20A.180, 74.20A.200, 74.20A.230, 74.20A.240, 74.20A.250, and 74.20A.270; adding a new section to chapter 74.20A RCW; creating a new section; repealing RCW 74.20.020; and prescribing penalties.

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

Sec. 1. Section 5, chapter 322, Laws of 1959 as last amended by section 29, chapter 260, Laws of 1984 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.

(2) The secretary may accept ~~((applications))~~ a request for support enforcement services on behalf of persons who are not recipients of public assistance and may take appropriate action ~~((in appropriate cases))~~ to establish or enforce support obligations against the parent or other persons owing a duty to pay moneys. ~~((Applications))~~ Requests accepted under this ~~((section))~~ subsection 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 may be necessary to limit applications))~~ and qualifications for support enforcement services under this subsection. ~~((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 accept requests for support enforcement services from child support enforcement agencies in other states operating child support programs under Title IV-D of the social security act, and may take appropriate action to establish and enforce support obligations against the parent or other person owing a duty to pay support moneys. Requests from such agencies must be accompanied by a request for support enforcement services executed by the state agency submitting the application and the person to whom the support moneys were owed authorizing the secretary to initiate appropriate action to establish, enforce, and collect the support obligation on their behalf. The application shall contain and be accompanied by such information and documentation as the secretary may by rule require.

The department may take action to establish, enforce, and collect a support obligation, including performing related services, under this chapter and chapter 74.20A RCW, or through the attorney general or prosecuting attorney for action under chapter 26.09, 26.18, 26.20, 26.21, or 26.26 RCW or other appropriate statutes or the common law of this state.

(4) The secretary may charge and 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 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))~~ any moneys collected by the department of social and health services from the person obligated to pay support be retained as satisfaction of fees charged 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 any person obligated to pay support. The secretary may, on showing of necessity, waive or defer any such fee.

~~((4))~~ (5) 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))~~ (6) 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.

Sec. 2. Section 4, chapter 164, Laws of 1971 ex. sess. as amended by section 5, chapter 183, Laws of 1973 1st ex. sess. and RCW 74.20A.040 are each amended to read as follows:

The secretary may issue a notice of a support debt accrued and/or accruing based upon ~~((subrogation to or))~~ RCW 74.20A.030, assignment of ((the judgment)) a support debt or a request for support enforcement services under RCW 74.20.040 (2) or (3), to enforce and collect a support debt created by a superior court order. Said notice may be served upon the debtor in the manner prescribed for the service of a summons in a civil action or be mailed to the debtor at his last known address by certified mail, return receipt requested, demanding payment within twenty days of the date of receipt. Said notice of debt shall include a statement of the support debt accrued and/or accruing, computable on the amount required to be paid under any superior court order to which the department is subrogated or is authorized to enforce and collect under RCW 74.20A.030, has an assigned interest, or has been authorized to enforce pursuant to RCW 74.20-.040 (2) or (3); a statement that the property of the debtor is subject to collection action; a statement that the property is 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

support debt. Action to collect ~~((said subrogated or assigned))~~ a support debt by lien and foreclosure, or distraint, seizure and sale, or order to withhold and deliver shall be lawful after twenty days from the date of service upon the debtor or twenty days from the receipt or refusal by the debtor of said notice of debt.

Sec. 3. Section 22, chapter 171, Laws of 1979 ex. sess. and RCW 74.20.330 are each amended to read as follows:

(1) Whenever public assistance is paid under this title, each applicant or recipient is deemed to have made assignment to the department of any rights to a support obligation from any other person the applicant or recipient may have in his or her own behalf or in behalf of any other family member for whom the applicant or recipient is applying for or receiving public assistance, including any ~~((rights))~~ unpaid support obligation or support debt which ~~((have))~~ has accrued at the time the assignment is made. Payment of public assistance under this ~~((chapter))~~ title operates as an assignment by operation of law.

(2) The department may, ~~((during the four months))~~ and under appropriate circumstances shall, continue to establish the support obligation and to enforce and collect the support debt for a period not to exceed three months from the month following the ((last)) month in which such family ceased to receive public assistance ((was paid)), and thereafter if a non-assistance ((application)) request for support enforcement services has been made under RCW 74.20.040((, pay the family, from collections made on the delinquent support assigned, an amount equal to the monthly amount required by either the superior court order for support or the administrative order entered under RCW 74.20A.055. Nothing in this section shall be construed to permit the department to make such payments for months in which no collections have been made on the delinquent support assigned, nor is the department permitted to make payments for the support of one person from collections on the delinquent support assigned by a different person. The department has, upon making any such payment, by operation of law an additional assignment of the unpaid obligation owed for the month in which the payment is made. The department shall take action to collect the unpaid obligation to reimburse itself and/or the federal government for the payment made)) (2) and (3). The department shall distribute all amounts collected in accordance with 42 U.S.C. Sec. 657.

Sec. 4. Section 2, chapter 164, Laws of 1971 ex. sess. as amended by section 3, chapter 171, Laws of 1979 ex. sess. and RCW 74.20A.020 are each amended to read as follows:

Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in this chapter and chapter 74.20 RCW shall have the following meanings:

(1) "Department" means the state department of social and health services.

(2) "Secretary" means the secretary of the department of social and health services, his designee or authorized representative.

(3) "Dependent child" means any person under the age of twenty-one who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States.

(4) "Support obligation" means the obligation to provide for the necessary care, support, and maintenance, including medical expenses, of a dependent child or other person as required by statutes and the common law of this or another state.

(5) "Superior court order" means any judgment, decree, or order of the superior court of the state of Washington, or a court of comparable jurisdiction of another state, establishing the existence of a support obligation and ordering payment of a set or determinable amount of support moneys (or an order of a court of comparable jurisdiction of another state ordering payment of a set or determinable amount of support moneys) to satisfy the support obligation.

(6) "Administrative order" means any determination, finding, decree, or order for support issued by the department pursuant to RCW 74.20A-.055, or by an agency of another state pursuant to a substantially similar administrative process, establishing the existence of a support obligation and ordering the payment of a set or determinable amount of support moneys to satisfy the support obligation.

~~((5))~~ (7) "Responsible parent" means a natural parent, adoptive parent, or stepparent of a dependent child.

~~((6))~~ (8) "Stepparent" means the present spouse of the person who is either the mother, father, or adoptive parent of a dependent child, and such status shall exist and continue as provided for in RCW 26.16.205 until the relationship is terminated by death or dissolution of marriage.

~~((7))~~ (9) "Support moneys" means any moneys or in-kind providings paid to satisfy a support obligation whether denominated as child support, spouse support, alimony, maintenance, or any other such moneys intended to satisfy an obligation for support of any person or satisfaction in whole or in part of arrears or delinquency on such an obligation.

(10) "Support debt" means any delinquent amount of support moneys which is due, owing, and unpaid under a superior court order or an administrative order, a debt for the payment of expenses for the reasonable or necessary care, support, and maintenance, including medical expenses, of a dependent child or other person for whom a support obligation is owed; or a debt under RCW 74.20A.100 or 74.20A.270. Support debt also includes any accrued interest, fees, or penalties charged on a support debt, and attorneys fees and other costs of litigation awarded in an action to establish and enforce a support obligation or debt.

(11) "State" means any state or political subdivision, territory, or possession of the United States, the District of Columbia, and the commonwealth of Puerto Rico.

Sec. 5. Section 3, chapter 164, Laws of 1971 ex. sess. as last amended by section 40, chapter 260, Laws of 1984 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))~~ 74.20A.055. Distribution of any support moneys shall be made in accordance with 42 U.S.C. Sec. 657.

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.

The department may initiate, continue, maintain, or execute action to establish, enforce, and collect a support obligation, including establishing paternity and performing related services, under this chapter and chapter 74.20 RCW, or through the attorney general or prosecuting attorney under chapter 26.09, 26.18, 26.20, 26.21, or 26.26 RCW or other appropriate statutes or the common law of this state, for a period not to exceed three months from the month following the month in which the family or any member thereof ceases to receive public assistance and thereafter if a non-assistance request for support enforcement services has been made under RCW 74.20.040.

Sec. 6. Section 8, chapter 164, Laws of 1971 ex. sess. as last amended by section 6, chapter 171, Laws of 1979 ex. sess. and RCW 74.20A.080 are each amended to read as follows:

Twenty-one days after service of a notice of debt as provided for in RCW 74.20A.040 ~~((stating a support debt accrued and/or accruing based upon subrogation to or assignment of the amount required to be paid under any superior court order))~~, or twenty-one days after service of the notice and finding of financial responsibility or as otherwise appropriate under RCW 74.20A.055, or as appropriate under RCW 74.20A.270, the secretary is hereby authorized to 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 said debtor. The order to withhold and deliver shall state the amount of the support debt accrued, and shall state in summary the terms of RCW 74.20A.090 and 74.20A.100. 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 is hereby required to answer said 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. In the event there is in the possession of any such person, firm, corporation, association, political subdivision or department of the state 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 said 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, or 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 of the money or other property held or claimed shall satisfy the requirement of the order to withhold and deliver. Delivery to the secretary shall serve 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 foregoing is subject to the exemptions contained in RCW 74.20A.090.

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. This requirement is not jurisdictional, but, if the copy is not mailed or served as in this section provided, or if any irregularity appears with respect to the mailing or service, the superior court, in 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.

An order to withhold and deliver issued in accordance with this section has priority over any other wage assignment or garnishment, except for another wage assignment or garnishment for support moneys.

Any person, firm, corporation, association, or political subdivision or department of the state required to withhold and deliver the earnings of a debtor under this action may deduct a processing fee from the remainder of the debtor's earnings, even if the remainder would otherwise be exempt under RCW 74.20A.090. The processing fee shall not exceed ten dollars for the first disbursement to the department and one dollar for each subsequent disbursement under the order to withhold and deliver.

Sec. 7. Section 10, chapter 164, Laws of 1971 ex. sess. as amended by section 11, chapter 183, Laws of 1973 1st ex. sess. and RCW 74.20A.100 are each amended to read as follows:

Should any person, firm, corporation, association, political subdivision or department of the state fail to make answer to an order to withhold and deliver within the time prescribed herein; or fail or refuse to deliver property pursuant to said order; or after actual notice of filing of a support lien, pay over, release, sell, transfer, or convey real or personal property subject to a support lien to or for the benefit of the debtor or any other person; or fail or refuse to surrender upon demand property distrained under RCW 74.20A.130 or fail or refuse to honor an assignment of wages presented by the secretary, said person, firm, corporation, association, political subdivision or department of the state shall be 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. If a judgment has been entered as the result of an action in superior court against a person, firm, corporation, association, political subdivision, or department of the state based on a violation of this section, the secretary is authorized to issue a notice of debt pursuant to RCW 74.20A.040 and to take appropriate action to collect the debt under this chapter.

Sec. 8. Section 16, chapter 164, Laws of 1971 ex. sess. as amended by section 8, chapter 171, Laws of 1979 ex. sess. and RCW 74.20A.160 are each amended to read as follows:

With respect to any arrearages on a support debt assessed under RCW 74.20A.040, 74.20A.055, or 74.20A.270, the secretary may at any time consistent with the income, earning capacity and resources of the debtor, set or reset a level and schedule of payments to be paid upon ~~((the))~~ a support debt. The secretary may, upon petition of the debtor providing sufficient evidence of hardship, after consideration of the standards established in RCW 74.20.270, release or refund moneys taken pursuant to RCW 74.20A.080 to provide for the reasonable necessities of the responsible parent or parents and minor children in the home of the responsible parent. Nothing in this section shall be construed to require the secretary to take any action which would require collection of less than the obligation for current support required under a superior court order or an administrative order or to take any action which would result in a bar of collection of arrearages from the debtor by reason of the statute of limitations.

Sec. 9. Section 18, chapter 164, Laws of 1971 ex. sess. as amended by section 16, chapter 183, Laws of 1973 1st ex. sess. and RCW 74.20A.180 are each amended to read as follows:

If the secretary finds that the collection of any support debt, accrued under a superior court order, based upon subrogation ~~((to))~~ or an authorization to enforce and collect under RCW 74.20A.030, or assignment of, or a request for support enforcement services to enforce and collect the amount of support ordered by any superior court order is in jeopardy, ~~((he))~~ the secretary may make a written demand under RCW 74.20A.040 for immediate payment of the support debt~~((;))~~ and, upon failure or refusal immediately to pay said support debt, ~~((he))~~ may file and serve liens pursuant to RCW 74.20A.060 and 74.20A.070, without regard to the twenty day period provided for in RCW 74.20A.040: PROVIDED, That no further action under RCW 74.20A.080, 74.20A.130 and 74.20A.140 may be taken until the notice requirements of RCW 74.20A.040 are met.

Sec. 10. Section 20, chapter 164, Laws of 1971 ex. sess. as last amended by section 9, chapter 171, Laws of 1979 ex. sess. and RCW 74.20A.200 are each amended to read as follows:

Any person against whose property a support lien has been filed or an order to withhold and deliver has been served pursuant to this chapter may apply for relief to the superior court of the county wherein the property is located ~~((on the basis that no support debt is due and owing))~~. It is the intent of this chapter that jurisdictional and constitutional issues, if any, shall be subject to review, but that administrative remedies be exhausted prior to judicial review.

Sec. 11. Section 23, chapter 164, Laws of 1971 ex. sess. as amended by section 21, chapter 183, Laws of 1973 1st ex. sess. and RCW 74.20A.230 are each amended to read as follows:

No employer shall discharge or discipline an employee or refuse to hire a person for reason that an assignment of earnings has been presented in settlement of a support debt or that a support lien or order to withhold and deliver has been served against said employee's earnings(~~(-PROVIDED; That this provision shall not apply if more than three support liens or orders to withhold and deliver are served upon the same employer within any period of twelve consecutive months)~~). If an employer discharges or disciplines an employee or refuses to hire a person in violation of this section, the employee or person shall have a cause of action against the employer. The employer shall be liable for double the amount of lost wages and any other damages suffered as a result of the violation and for costs and reasonable attorney fees, and shall be subject to a civil penalty of not more than two thousand five hundred dollars for each violation. The employer may also be ordered to hire, rehire, or reinstate the aggrieved individual.

Sec. 12. Section 24, chapter 164, Laws of 1971 ex. sess. as amended by section 22, chapter 183, Laws of 1973 1st ex. sess. and RCW 74.20A.240 are each amended to read as follows:

Any person, firm, corporation, association, political subdivision or department of the state employing a person owing a support debt or obligation, shall honor, according to its terms, a duly executed assignment of earnings presented by the secretary as a plan to satisfy or retire a support debt or obligation. This requirement to honor the assignment of earnings and the assignment of earnings itself shall be applicable whether said earnings are to be paid presently or in the future and shall continue in force and effect until released in writing by the secretary. Payment of moneys pursuant to an assignment of earnings presented by the secretary shall serve 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 said assignment of earnings. The secretary shall be released from liability for improper receipt of moneys under an assignment of earnings upon return of any moneys so received.

An assignment of earnings presented by the secretary in accordance with this section has priority over any other wage assignment or garnishment, except for another wage assignment or garnishment for support moneys.

The employer may deduct a processing fee from the remainder of the debtor's earnings, even if the remainder would be exempt under RCW 74.20A.090. The processing fee shall not exceed ten dollars from the first disbursement to the department and one dollar for each subsequent disbursement under the assignment of earnings.

Sec. 13. Section 25, chapter 164, Laws of 1971 ex. sess. as last amended by section 20, chapter 171, Laws of 1979 ex. sess. and RCW 74.20A.250 are each amended to read as follows:

((By accepting public assistance, the recipient is)) Whenever the secretary has been authorized under RCW 74.20.040 to take action to establish, enforce, and collect support moneys, the custodial parent and the child or children are deemed, without the necessity of signing any document, to have appointed the secretary as his or her true and lawful attorney in fact to act in his or her name, place, and stead to perform the specific act of endorsing any and all drafts, checks, money orders or other negotiable instruments representing support payments which are received on behalf of said child or children ((as reimbursement for the public assistance moneys previously paid to said recipient)) to effect proper and lawful distribution of the support moneys in accordance with 42 U.S.C. Sec. 657.

Sec. 14. Section 18, chapter 171, Laws of 1979 ex. sess. as amended by section 41, chapter 260, Laws of 1984 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 has violated RCW 74.20A.100, 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 or the specific violation of RCW 74.20A.100 that has occurred. 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))~~ answer shall also either acknowledge the department's right to the moneys or request an administrative hearing to contest the allegation that RCW 74.20A.100 has been violated, or 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 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. 15. A new section is added to chapter 74.20A RCW to read as follows:

A support obligation arising under the statutes or common law of this state binds the responsible parent, present in this state, regardless of the presence or residence of the custodian or children. The obligor is presumed to have been present in the state of Washington during the period for which support is sought until otherwise shown. The department may establish an administrative order pursuant to RCW 74.20A.055 that is based upon any support obligation imposed or imposable under the statutes or common law of any state in which the obligor was present during the period for which support is sought.

NEW SECTION. Sec. 16. Section 3, chapter 322, Laws of 1959, section 2, chapter 206, Laws of 1963 and RCW 74.20.020 are each repealed.

NEW SECTION. Sec. 17. The department of social and health services office of support enforcement is the designated agency in Washington state to administer the child support program under Title IV-D of the federal social security act and is responsible for providing necessary and mandated support enforcement services and ensuring that such services are

available state-wide. It is the intent of the legislature to enhance the total child support program in this state by granting the office of support enforcement administrative powers and flexibility. If the exercise of this authority is used to supplant or replace the role of the prosecuting attorneys for reasons other than economy or federal compliance, the Washington association of prosecuting attorneys shall report to the committees on judiciary of the senate and house of representatives.

Passed the House April 23, 1985.

Passed the Senate April 18, 1985.

Approved by the Governor May 13, 1985.

Filed in Office of Secretary of State May 13, 1985.

CHAPTER 277

[Substitute House Bill No. 84]

SCHOOL DISTRICTS AND EDUCATIONAL SERVICE DISTRICTS—SELF-FUNDING OF EMPLOYEE LOSS OF TIME AND HEALTH BENEFIT PLANS

AN ACT Relating to local government insurance; amending RCW 48.62.010, 48.62.030, 48.62.070, 48.62.080, 48.62.100, 48.62.110, 28A.58.420, and 48.01.050; adding a new section to chapter 48.62 RCW; and creating a new section.

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

Sec. 1. Section 1, chapter 256, Laws of 1979 ex. sess. and RCW 48.62.010 are each amended to read as follows:

The legislature finds that local governmental entities in this state are experiencing a trend of vastly increased insurance premiums for the renewal of identical insurance policies, that fewer insurance carriers are willing to provide local governmental entities with insurance coverage, and that some local governmental entities are unable to obtain desired insurance coverage.

It is the intent of this legislation to clearly provide for the authority of local governmental entities to individually self-insure, self-fund under section 3 of this 1985 act, purchase individual insurance coverage, and obtain risk management, claims, and administrative services. It is also the intent of this legislation to grant local governmental entities the maximum flexibility to enter into agreements with each other to provide joint programs, which include programs for joint self-funding under section 3 of this 1985 act, the joint purchasing of insurance, joint self-insuring, and joint contracting for or hiring personnel to provide risk management, claims, and administrative services.

Sec. 2. Section 3, chapter 256, Laws of 1979 ex. sess. as amended by section 17, chapter 59, Laws of 1983 and RCW 48.62.030 are each amended to read as follows:

The governing body of any local governmental entity may, as an alternative or in addition to the establishment of a self-funded plan, a self-insurance reserve, or the purchasing of insurance, contract for or hire