

ment, unless the department has been notified of the pendency of an action to recover on the bond.

Sec. 10. Section 46.12.100, chapter 12, Laws of 1961 as amended by section 10, chapter 32, Laws of 1967 (SB 36) and RCW 46.12.100; section 46.12.110, chapter 12, Laws of 1961 and RCW 46.12.110; section 46.12.150, chapter 12, Laws of 1961 and RCW 46.12.150; section 46.12.180, chapter 12, Laws of 1961 and RCW 46.12.180 are each repealed.

Repeal.

NOTE: See also section 10, chapter 32, Laws of 1967.

Sec. 11. This act shall become effective at midnight on June 30, 1967. It applies to transactions entered into and events occurring after that date.

Effective date.

Passed the Senate January 26, 1967.

Passed the House March 6, 1967.

Approved by the Governor March 21, 1967.

CHAPTER 141.

[Senate Bill No. 40.]

STATE RESIDENTIAL SCHOOLS—RESIDENTS—
FINANCIAL RESPONSIBILITY.

AN ACT relating to the department of institutions; providing for responsibility of mentally or physically deficient persons residing in state residential schools for payment of the cost of care, support and treatment while residing in such institutions; providing procedures for establishing rates of charge; providing provisions for enforcement; amending section 72.33.180, chapter 28, Laws of 1959, as amended by section 1, chapter 61, Laws of 1959, and RCW 72.33.180; adding new sections to chapter 28, Laws of 1959 and to chapter 72.33 RCW; and providing an effective date.

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

Section 1. The purpose of this 1967 amendatory act is to place financial responsibility for cost of care, support and treatment upon those residents of

State residential schools—
Financial responsibility of residents.
Purpose.

State residen-
tial schools—
Financial
responsibility
of residents.
Purpose.

state residential schools who possess assets over and above the minimal amount required to be retained for personal use; to provide procedures for establishing such liability and the monthly rate thereof, and the process for appeal therefrom to the director of the department of institutions and the courts by any person deemed aggrieved thereby.

New section.

Sec. 2. There is added to chapter 28, Laws of 1959 and to chapter 72.33 RCW a new section to read as follows:

Liability of
estate of
residents.

The estates of all mentally or physically deficient persons who have been admitted to the state residential schools listed in RCW 72.33.030 either by application of their parents or guardian or by commitment of court, or who may hereafter be admitted or committed to such institutions, shall be liable for their per capita costs of care, support and treatment: *Provided*, That the estate funds may not be reduced as a result of such liability below an amount of one thousand dollars.

New section.

Sec. 3. There is added to chapter 28, Laws of 1959 and to chapter 72.33 RCW a new section to read as follows:

Costs—Compu-
tation—Aver-
age per capita
cost—
Collection.

The charges for care, support and treatment as provided in section 2 of this 1967 amendatory act shall be based on the average monthly per capita costs of operating such residential schools for the previous calendar year taking into consideration all expenses of institutional operation, maintenance and repair, salaries and wages, equipment and supplies: *Provided*, That all expenses directly related to the cost of education, vocational training and capital construction shall be excluded from the computation of the average per capita cost. The average per capita cost shall be computed by the department of institutions annually and adopted as a rule of the department in accordance with the provisions of

chapter 42.32 RCW and of chapter 34.04 RCW. The department of institutions shall be charged with the duty of collection of such charges which may be enforced by civil action instituted by the attorney general within or without the state.

Sec. 4. There is added to chapter 28, Laws of 1959 and to chapter 72.33 RCW a new section to read as follows:

The department of institutions shall investigate and determine the assets of the estates of each resident of a state residential school and the ability of each such estate to pay all, or any portion of, the average monthly charge for care, support and treatment at a state residential school as determined by the procedure set forth in section 3 of this 1967 amendatory act: *Provided*, That the sum of one thousand dollars shall be retained by the estate of the resident at all times for such personal needs as may arise: *Provided further*, That where any person other than a resident or the guardian of his estate deposits funds so that the depositor and a resident become joint tenants with the right of survivorship, such funds shall not be considered part of the resident's estate so long as the resident is not the sole survivor among such joint tenants.

Sec. 5. There is added to chapter 28, Laws of 1959 and to chapter 72.33 RCW a new section to read as follows:

In all cases where a determination is made that the estate of a mentally or physically deficient person who resides at a state residential school is able to pay all or any portion of the monthly charges, a notice and finding of financial responsibility shall be personally served on the guardian of the resident's estate, or if no guardian has been appointed then to his spouse or parents and to the attorney general. The notice shall set forth the amount the depart-

Financial
responsibility
of residents
at state resi-
dential schools
—Determina-
tion of ability
to contribute.

ment has determined that such estate is able to pay per month, not to exceed the monthly charge as fixed in accordance with section 3 of this act, and the responsibility for payment to the department of institutions shall commence thirty days after personal service of such notice and finding of responsibility. An appeal from the determination of responsibility may be made to the director within such thirty day period upon written notice of appeal being served upon the director by registered or certified mail. If no appeal is taken, the notice and finding of responsibility shall become final. If an appeal is taken, the execution of notice and finding of responsibility shall be stayed pending the decision of such appeal. Appeals may be heard in any county seat most convenient to the appellant. The hearing of appeals may be presided over by a hearing examiner and the proceedings shall be recorded either manually or by a mechanical device. Any such appeal shall be a "contested case" as defined in RCW 34.04.010, and practice and procedure shall be governed by the provisions of this 1967 amendatory act, the rules and regulations of the department of institutions, and the Administrative Procedure Act, chapter 34.04 RCW.

New section.

Sec. 6. There is added to chapter 28, Laws of 1959 and to chapter 72.33 RCW a new section to read as follows:

Attorney gen-
eral guardian
ad litem—
Limitation.

(1) Whenever the assets of the estate of a resident of a state residential school total more than one thousand dollars, and a guardian of the estate has not already been appointed, the attorney general shall be deemed to have been appointed guardian of such estate by the Thurston County Superior Court as of the date a notice and finding of financial responsibility are served on the attorney general as provided in section 5 of this act. The attorney general shall serve as such guardian until another

guardian is appointed, or until the guardianship is terminated, as provided in chapter 11.88 RCW. No assistant attorney general representing the department of institutions shall also represent the estate of a resident of a state residential school.

(2) Whenever the attorney general serves as guardian of an estate under subsection (1) of this section no bond shall be required and no court order authorizing or directing payment to the department of institutions for care, support and treatment shall be necessary: *Provided*, That the attorney general shall be satisfied that the provisions of this act are met before payment is made from the resident's estate to the department of institutions for care, support and treatment. Except as otherwise provided in this section the provisions in chapters 11.88 and 11.92 RCW shall apply, wherever pertinent, to proceedings under this act, including RCW 11.92.180.

Sec. 7. There is added to chapter 28, Laws of 1959 and to chapter 72.33 RCW a new section to read as follows:

New section.

The director, upon application of the guardian of the estate of the resident, and after investigation, or upon investigation without application, may, if satisfied of the financial ability or inability of such person to make payments in accordance with the original finding of responsibility, modify or vacate such original finding of responsibility, and enter a new finding of responsibility. The director's determination to modify or vacate findings of responsibility shall be served and be appealable in the same manner and in accordance with the same procedure for appeals of original findings of responsibility.

Modification or vacation of determination of ability to pay.

Sec. 8. There is added to chapter 28, Laws of 1959 and to chapter 72.33 RCW a new section to read as follows:

New section.

Financial re-
sponsibility—
State residen-
tial schools—
Payable in
advance
monthly.

The charges for care, support, maintenance and treatment of mentally or physically deficient persons at state residential schools as provided by this 1967 amendatory act shall be payable in advance on the first day of each and every month to the department of institutions.

New section.

Sec. 9. There is added to chapter 28, Laws of 1959 and to chapter 72.33 RCW a new section to read as follows:

Liability of
after-acquired
property.

The provisions of this 1967 amendatory act shall not be construed to prohibit or prevent the department of institutions from obtaining reimbursement from any person liable under this 1967 amendatory act for payment of the full amount of the accrued per capita cost from any property acquired by gift, devise or bequest subsequent to and regardless of the initial findings of responsibility under section 5 of this 1967 amendatory act: *Provided*, That the estate of any resident of a state residential school shall not be liable for such reimbursement subsequent to his placement out of the state residential school: *Provided further*, That upon the death of any person while a resident in a state residential school his estate shall become liable to the same extent as the resident's liability on the date of death.

RCW 72.33.180
amended.

Sec. 10. Section 72.33.180, chapter 28, Laws of 1959, as amended by section 1, chapter 61, Laws of 1959, and RCW 72.33.180 are each amended to read as follows:

The superintendent of a state school shall serve as custodian without compensation of such personal property of a resident as may be located at the school, including moneys deposited with the superintendent for the benefit of such resident. As such custodian, the superintendent shall have authority to disburse moneys from the resident's fund for the

following purposes and subject to the following limitations:

Superintendent as custodian of personal property of a resident—Disbursements.

(1) Subject to specific instructions by a donor or payor of money to the superintendent for the benefit of a resident, the superintendent may disburse any of the funds belonging to a resident for such personal needs of such resident as the superintendent may deem proper and necessary.

(2) When a resident is granted placement, the superintendent shall deliver to said resident, or the parent, guardian or agency legally responsible for the resident, all or such portion of the funds of which the superintendent is custodian as above defined, or other property belonging to the resident, as the superintendent may deem necessary to the resident's welfare, and the superintendent may during such placement deliver to the former resident such additional property or funds belonging to the resident as the superintendent may from time to time deem proper. When the conditions of placement have been fully satisfied and the resident is discharged, the superintendent shall deliver to such resident, or the parent, person or agency legally responsible for the resident, all funds or other property belonging to the resident remaining in his possession as custodian.

(3) All funds held by the superintendent as custodian may be deposited in a single fund, the receipts and expenditures therefrom to be accurately accounted for by him: *Provided*, That all interest accruing from, or as a result of the deposit of such moneys in a single fund shall be used by the superintendent for the general welfare of all the residents of such institution: *Provided, further*, That when the personal accounts of residents exceed three hundred dollars, the interest accruing therefrom shall be credited to the personal accounts of such resi-

Superintendent as custodian of personal property of a resident—Disbursements.

dents. All such expenditures shall be subject to the duty of accounting provided for in this section.

(4) The appointment of a guardian for the estate of such resident shall terminate the superintendent's authority as custodian of a resident's funds upon receipt by the superintendent of a certified copy of letters of guardianship. Upon the guardian's request, the superintendent shall immediately forward to such guardian any funds or other property of the resident remaining in the superintendent's possession together with a full and final accounting of all receipts and expenditures made therefrom.

(5) Upon receipt of a written request from the superintendent stating that a designated individual is a resident of the state school for which he has administrative responsibility and that such resident has no legally appointed guardian of his estate, any person, bank, corporation, or agency having possession of any money, bank accounts, or choses in action owned by such resident, shall, if the amount does not exceed one thousand dollars, deliver the same to the superintendent as custodian and mail written notice thereof to such resident at the state school. The receipt of the superintendent shall constitute full and complete acquittance for such payment and the person, bank, corporation, or agency making such payment shall not be liable to the resident or his legal representatives. All funds so received by the superintendent shall be duly deposited by him as custodian in the resident's fund to the personal account of such resident.

If any proceeding is brought in any court to recover property so delivered, the attorney general shall defend the same without cost to the person, bank, corporation, or agency effecting such delivery to the superintendent, and the state shall indemnify such person, bank, corporation, or agency against

any judgment rendered as a result of such proceeding.

Sec. 11. The liabilities created by this 1967 amendatory act shall apply to the care, support and treatment occurring after the effective date of this act. Application.

Sec. 12. Notwithstanding any other provision of this 1967 amendatory act, the director may, if in his discretion any resident of a state residential school can be discharged more rapidly therefrom and assimilated into a community, keep an amount not exceeding five thousand dollars in the resident's fund for such resident and such resident shall not thereafter be liable thereon for per capita costs of care, support and treatment as provided for in section 2 of this act. Accelerated care—Limit in residents' funds.

Sec. 13. This 1967 amendatory act shall become effective July 1, 1967. Effective date.

Passed the Senate February 1, 1967.

Passed the House March 8, 1967.

Approved by the Governor March 21, 1967.