

rendering emergency services based solely upon failure to obtain consent where the individuals served are unable by reason of age or condition to give consent and when there is no other person reasonably available who is legally authorized to give such consent.

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I have vetoed the sentence in section 4 on page 3, lines 17 through 19, which provides that the state board of health shall adopt rules and regulations defining situations which may be considered emergent for the purposes of this act. Unfortunately, no one, including the state board of health has sufficient foresight to define emergency situations in a manner which would include all emergencies. Having such defined codified regulations might well at times require an additional expenditure of time by the physician or hospital personnel on the scene while they try to assure that the situation falls within rules and regulations. In such circumstances, time is of the essence and the judgment of a qualified and licensed physician and hospital personnel on the scene is the best judgment which must be relied upon. No one would be protected by rules and regulations defining emergencies, and at times someone might well be harmed thereby avoiding the very purpose of this act. The public is well protected from inappropriate judgments by the requirement of "good faith" action and the other limitations in the statute.

Since the opportunity for harm to persons in emergency situations due to delay or misunderstanding would be increased and no off-setting benefit either to the public or the individuals involved would accrue, this item has been vetoed. The remainder of the bill is approved."

CHAPTER 306

[Engrossed Senate Bill No. 179]

PUBLIC ASSISTANCE--

RECOVERY OF MEDICAL EXPENSES BY STATE

AN ACT Relating to public assistance; and amending section 74.09.180, chapter 26, Laws of 1959 as amended by section 8, chapter 173, Laws of 1969 ex. sess. and RCW 74.09.180.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Section 1. Section 74.09.180, chapter 26, Laws of 1959 as

amended by section 8, chapter 173, Laws of 1969 ex. sess. and RCW 74.09.180 are each amended to read as follows:

The provisions of this chapter shall not apply to recipients whose personal injuries are occasioned by negligence or wrong of another: PROVIDED, HOWEVER, That the ~~((director))~~ secretary of the department of ~~((public assistance))~~ social and health services may, in his discretion, furnish assistance, under the provisions of this chapter, for the results of injuries to a recipient, and the department of ~~((public assistance))~~ social and health services shall thereby be subrogated to the recipient's right of recovery therefor to the extent of the value of the assistance furnished by the department of social and health services: PROVIDED FURTHER, That to the end of securing reimbursement of any assistance furnished to such a recipient, the department of social and health services may, as a nonexclusive legal remedy, assert and enforce a lien upon any claim, right of action and/or money to which such recipient is entitled (a) against any tort feisor and/or insurer of such tort feisor, or (b) any contract of insurance providing coverage to such recipient for said injuries, to the extent of the assistance furnished by said department to the recipient. If a recovery shall be made and the subrogation or lien is satisfied either in full or in part as a result of an independent action initiated by or on behalf of a recipient to recover the personal injuries against any tort feisor or insurer, then and in that event the amount repaid to the state of Washington as a result of said action, whether concluded by entry of a judgment or compromise and settlement, shall bear its proportionate share of attorney's fees and costs incurred by the injured recipient or his widow, children, or dependents, as the case may be, to the extent that such attorney's fees and costs are approved by the court in which the action is initiated, and upon notice to the department which shall have the right to be heard on the matter: PROVIDED, That if the attorney's fees conform to the applicable minimum bar fee schedule, court approval for such fees shall not be necessary.

Passed the Senate May 8, 1971.

Passed the House May 7, 1971.

Approved by the Governor May 20, 1971 with the exception of an item in section 1 which is vetoed.

Filed in Office of Secretary of State May 21, 1971.

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

"...This bill provides for recovery by the Department of Social and Health Services for medical expenses it has paid where a public assistance recipient has been injured by a third party. The act further provides that the department

Veto
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will bear its proportionate share of attorney's fees and costs where an injured party has obtained his own attorney and has recovered from the third party. Court approval of such attorney's fees is required by the act, with the proviso that if the attorney's fees conform to the applicable minimum bar fee schedule, court approval is not necessary.

The Department of Labor and Industries has had similar legislation for some time which has provided for that department bearing its proportionate share of attorney's fees and costs, provided that there is court approval. There has been no exemption from court approval even where there was conformity to the applicable minimum bar fee schedule. Without that exemption the act has proven quite workable, to the public, the bar and the department. There would not appear to be any reason to deviate from the already successful statutory formula which has applied to the Department of Labor and Industries.

It would appear the present law relating to the Department of Social and Health Services should, in the absence of substantial reason for difference, be consistent with the law related to the Department of Labor and Industries. Furthermore, there may well be times when the minimum bar fee schedule may not be appropriate and the court should have the opportunity to review such situations. I have therefore vetoed the item in section one, page two, lines 9 through 11.

The remainder of Senate Bill 179 is approved."

CHAPTER 307
[Engrossed Senate Bill No. 428.]
MODEL LITTER CONTROL ACT

AN ACT Relating to the public welfare; providing for a Model Litter Control Act; creating new sections; amending section 46.56.135, chapter 12, Laws of 1961 as amended by section 1, chapter 52, Laws of 1965 ex. sess. and RCW 46.61.655; repealing section 1, chapter 36, Laws of 1909, section 1, chapter 73, Laws of 1931, section 49, chapter 281, Laws of 1969 ex. sess. and RCW 9.61.120; repealing section 2, chapter 85, Laws of 1967 and RCW 9.66.060; repealing section 3,