

NEW SECTION. Sec. 2. This 1973 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 14, 1973.

Passed the House April 14, 1973.

Approved by the Governor April 25, 1973.

Filed in Office of Secretary of State April 26, 1973.

CHAPTER 183

[House Bill No. 305]

PUBLIC ASSISTANCE--SUPPORT COLLECTION

PROCEDURES--

AN ACT Relating to public assistance; amending section 5, chapter 322, Laws of 1959 as last amended by section 1, chapter 213, Laws of 1971 ex. sess. and RCW 74.20.040; amending section 16, chapter 173, Laws of 1969 ex. sess. and RCW 74.20.101; amending section 15, chapter 206, Laws of 1963 and RCW 74.20.300; amending section 3, chapter 164, Laws of 1971 ex. sess. and RCW 74.20A.030; amending section 4, chapter 164, Laws of 1971 ex. sess. and RCW 74.20A.040; amending section 5, chapter 164, Laws of 1971 ex. sess. and RCW 74.20A.050; amending section 6, chapter 164, Laws of 1971 ex. sess. and RCW 74.20A.060; amending section 7, chapter 164, Laws of 1971 ex. sess. and RCW 74.20A.070; amending section 8, chapter 164, Laws of 1971 ex. sess. and RCW 74.20A.080; amending section 9, chapter 164, Laws of 1971 ex. sess. and RCW 74.20A.090; amending section 10, chapter 164, Laws of 1971 ex. sess. and RCW 74.20A.100; amending section 13, chapter 164, Laws of 1971 ex. sess. and RCW 74.20A.130; amending section 14, chapter 164, Laws of 1971 ex. sess. and RCW 74.20A.140; amending section 15, chapter 164, Laws of 1971 ex. sess. and RCW 74.20A.150; amending section 17, chapter 164, Laws of 1971 ex. sess. and RCW 74.20A.170; amending section 18, chapter 164, Laws of 1971 ex. sess. and RCW 74.20A.180; amending section 19, chapter 164, Laws of 1971 ex. sess. and RCW 74.20A.190; amending section 20, chapter 164, Laws of 1971 ex. sess. and RCW 74.20A.200; amending section 21, chapter 164, Laws of 1971 ex. sess. and RCW 74.20A.210; amending section 22, chapter 164, Laws of 1971 ex. sess. and RCW 74.20A.220; amending section 23, chapter 164, Laws of 1971 ex. sess. and RCW 74.20A.230; amending section 24, chapter 164, Laws of 1971 ex.

sess. and RCW 74.20A.240; amending section 25, chapter 164, Laws of 1971 ex. sess. and RCW 74.20A.250; adding new sections to chapter 164, Laws of 1971 ex. sess. and to chapter 74.20A RCW; and declaring an emergency.

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

Section 1. Section 5, chapter 322, Laws of 1959 as last amended by section 1, chapter 213, Laws of 1971 ex. sess. and RCW 74.20.040 are each amended to read as follows:

Whenever the department of ((public assistance)) social and health services receives an application for public assistance on behalf of a child and it shall appear to the satisfaction of the department that said child has been abandoned by its parents or that the child and one parent have been abandoned by the other parent or that the parent or other person who has a responsibility for the care, support, or maintenance of such child has failed or neglected to give proper care or support to such child, the department shall take appropriate action under the provisions of this chapter, the abandonment or nonsupport statutes, or other appropriate statutes of this state to insure that such parent or other person responsible shall pay for the care, support, or maintenance of said dependent child.

((The secretary may accept applications for support enforcement services from custodians of minor children who are not recipients of public assistance and may take action as he deems appropriate to establish or enforce child support obligations against the parent or parents of said children:)) 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 to establish or enforce support obligations against persons owing a duty to pay support. 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 ((administrative)) but not limited to remedies established in chapter 74.20A RCW, to establish and enforce said ((child)) support obligations. The secretary may establish by regulation, such reasonable standards as he deems 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 ((minor children)) person for whom a support obligation exists.

The secretary may charge a fee 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 ((minor children)) 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 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. The secretary may, on showing of necessity, waive or defer any such fee.

Sec. 2. Section 16, chapter 173, Laws of 1969 ex. sess. and RCW 74.20.101 are each amended to read as follows:

Whenever, as a result of any action, support money is paid by the person or persons responsible for support, such payment shall be paid through the support enforcement and collections unit of the state department of ((public assistance)) social and health services upon written notice by the department to the responsible person or to the clerk of the court, if appropriate, that the children for whom ((said support order was issued)) a support obligation exists are receiving public assistance.

Sec. 3. Section 15, chapter 206, Laws of 1963 and RCW 74.20.300 are each amended to read as follows:

No filing or recording fees, court fees, fees for making copies of documents or fees for service of process shall be required from the state department of ((public assistance)) social and health services by any county clerk, county auditor, sheriff or other county officer for the filing of any actions or documents authorized by this chapter, or for the service of any summons or other process in any action or proceeding authorized by this chapter.

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

Except as provided in this section and in section 27 of this 1973 amendatory act, any payment of public assistance money made to or for the benefit of any dependent child or children creates a debt due and owing to the department by the natural or adoptive parent or parents who are responsible for support of such children in an amount equal to the amount of public assistance money so paid: PROVIDED, That where there has been a superior court order ((or final decree of divorce)), the debt shall be limited to the amount ((of)) provided for by said ((court)) order ((or decree)). The department shall have the right to petition the appropriate superior court for modification of a superior court order on the same grounds as ((either)) a party to said cause. Where a child has been placed in foster care, and a written agreement for payment of support has been entered into by the responsible parent or parents and the department, the debt shall be limited to the amount provided for in said agreement: PROVIDED, That if a court order for support is or has been entered, the provisions of said order shall prevail over the agreement. The department shall adopt rules and regulations, based on ability to pay, with respect to

the level of support to be provided for in such agreements, or modifications of such agreements based on changed circumstances.

The department shall be subrogated to the right of said child or children or person having the care, custody, and control of said child or children 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 thus expended. If a superior court order ((or final decree of divorce)) enters judgment for an amount of support to be paid by an obligor parent, the department shall be subrogated to the debt created by such order, and said money judgment shall be deemed to be in favor of the department. This subrogation shall specifically be applicable to temporary spouse support orders, family maintenance orders and alimony orders up to the amount paid by the department in public assistance moneys to or for the benefit of a dependent child or children but allocated to the benefit of said children on the basis of providing necessities for the caretaker of said children.

Debt under this section shall not be incurred by nor at any time be collected from a parent or other person who is the recipient of public assistance moneys for the benefit of minor dependent children for the period such person or persons are in such status.

Sec. 5. Section 4, chapter 164, Laws of 1971 ex. sess. and RCW 74.20A.040 are each amended to read as follows:

The secretary may issue a notice of a ((child)) support debt accrued and/or accruing based upon subrogation to or assignment of the judgment created by a superior court order ((or final decree of divorce)). Said notice ((shall)) 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 ((child)) support debt accrued and/or accruing, computable on the amount required to be paid under any superior court order ((or final decree of divorce)) to which the department is subrogated or has an assigned interest; 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 ((child)) support debt. Action to collect said subrogated or assigned ((child)) 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. 6. Section 5, chapter 164, Laws of 1971 ex. sess. and

RCW 74.20A.050 are each amended to read as follows:

In the absence of a superior court order ((or final decree of divorce,)) the secretary may issue a notice of a ((child)) support debt accrued and/or accruing based upon payment of public assistance to or for the benefit of any dependent child or children. Said notice of debt shall be served upon the debtor in the manner prescribed for the service of summons in a civil action, including summons by publication where appropriate and necessary. The notice of debt shall include a statement of the ((child)) support debt accrued and/or accruing, computable on the basis of the amount of public assistance previously paid and to be paid in the future; a statement of the amount of the monthly public assistance payment; a statement of the name of the recipient and the name of the child or children for whom assistance is being paid; a demand for immediate payment of the ((child)) support debt or in the alternative, a demand that the debtor make answer within twenty days of the date of service to the secretary stating defenses to liability under RCW 74.20A.030; a statement that if no answer is made on or before twenty days from the date of the service, the ((child)) support debt shall be assessed and determined subject to computation, and is subject to collection action; a statement that the property of the debtor will be subject to lien and foreclosure, distraint, seizure and sale, or order to withhold and deliver. If no answer is had by the secretary to the notice of debt on or before twenty days of the date of service, the ((child)) support debt shall be assessed and determined subject to computation and the secretary shall issue a collection warrant authorizing collection action under this chapter. If the debtor, within twenty days of date of service of the notice of debt, makes answer to the secretary alleging defenses to liability under RCW 74.20A.030, said debtor shall have the right to a fair hearing pursuant to RCW 74.08.070 and 74.08.090. The decision of the department in the fair hearing shall establish the liability of the debtor, if any, for repayment of public assistance moneys expended to date as an assessed and determined ((child)) support debt. Action by the secretary under the provisions of this chapter to collect said ((child)) support debt shall be lawful from the date of issuance of the decision in the fair hearing. If the secretary reasonably believes that the debtor is not a resident of this state, or is about to move from this state, or has concealed himself, absconded, absented himself or has removed or is about to remove, secrete, waste, or otherwise dispose of property which could be made subject to collection action to satisfy the ((child)) support debt, the secretary may file and serve liens pursuant to RCW 74.20A.060 and 74.20A.070 during pendency of the fair hearing or thereafter, whether or not appealed: PROVIDED, That no further action under RCW

74.20A.080, 74.20A.130 and 74.20A.140 may be taken on such liens until final determination after fair hearing and/or appeal. The secretary shall in such cases, make and file in the record of the fair hearing an affidavit stating the reasons upon which said belief is founded: PROVIDED, That the debtor may furnish a good and sufficient bond satisfactory to the secretary during pendency of the fair hearing, or thereafter, and in such case liens filed shall be released. If the decision of the fair hearing is in favor of the debtor, all liens filed shall be released.

Sec. 7. Section 6, chapter 164, Laws of 1971 ex. sess. and RCW 74.20A.060 are each amended to read as follows:

Twenty-one days after receipt or refusal of notice of debt under provisions of RCW 74.20A.040, or twenty-one days after service of notice of debt, or as otherwise appropriate under the provisions of RCW 74.20A.050, or as appropriate under the provisions of section 27 of this 1973 amendatory act a lien may be asserted by the secretary upon the real or personal property of the debtor. The claim of the department for a ((child)) support debt, not paid when due, shall be a lien against all property of the debtor with priority of a secured creditor. This lien shall be separate and apart from, and in addition to, any other lien created by, or provided for, in this title. The lien shall attach to all real and personal property of the debtor on the date of filing of such statement with the county auditor of the county in which such property is located. A lien against earnings shall attach and be effective subject to service requirements of RCW 74.20A.070 upon filing with the county auditor of the county in which the employer does business or maintains an office or agent for the purpose of doing business.

Whenever a ((child)) support lien has been filed and there is in the possession of any person, firm, corporation, association, political subdivision or department of the state having notice of said lien any property which may be subject to the ((child)) support lien, such property shall not be paid over, released, sold, transferred, encumbered or conveyed, except as provided for by the exemptions contained in RCW 74.20A.090 and 74.20A.130, unless a written release or waiver signed by the secretary has been delivered to said person, firm, corporation, association, political subdivision or department of the state or unless a determination has been made in a fair hearing pursuant to RCW 74.20A.050 or by a superior court ordering release of said ((child)) support lien on the basis that no debt exists or that the debt has been satisfied.

Sec. 8. Section 7, chapter 164, Laws of 1971 ex. sess. and RCW 74.20A.070 are each amended to read as follows:

The secretary may at any time after filing of a ((child)) support lien serve a copy of said lien upon any person, firm,

corporation, association, political subdivision or department of the state in possession of earnings, or deposits or balances held in any bank account of any nature which are due, owing, or belonging to said debtor. Said ((child)) support lien shall be served upon the person, firm, corporation, association, political subdivision or department of the state either in the manner prescribed for the service of summons in a civil action or by certified mail, return receipt requested. No lien filed under RCW 74.20A.060 shall have any effect against earnings or bank deposits or balances unless it states the amount of the ((child)) support debt accrued and unless service upon said person, firm, corporation, association, political subdivision or department of the state in possession of earnings or bank accounts, deposits or balances is accomplished pursuant to this section.

Sec. 9. Section 8, chapter 164, Laws of 1971 ex. sess. and RCW 74.20A.080 are each amended to read as follows:

After service of a notice of debt as provided for in RCW 74.20A.040 stating a ((child)) 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 final decree of divorce,)) or whenever a ((child)) support lien has been filed pursuant to RCW 74.20A.060, 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 which shall also be served upon the debtor, shall state the amount of the ((child)) 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. 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 and 74.20A.130.

Sec. 10. Section 9, chapter 164, Laws of 1971 ex. sess. and RCW 74.20A.090 are each amended to read as follows:

Whenever a ((child)) support lien or order to withhold and deliver is served upon any person, firm, corporation, association, political subdivision or department of the state asserting a ((child)) support debt against earnings and there is in the possession of such person, firm, corporation, association, political subdivision, or department of the state, any such earnings, RCW 7.33.280 shall not apply, but fifty percent of the disposable earnings shall be exempt and may be disbursed to the debtor whether such earnings are paid, or to be paid weekly, monthly, or at other regular intervals and whether there be due the debtor earnings for one week or for a longer period. The lien or order to withhold and deliver shall continue to operate and require said person, firm, corporation, association, political subdivision, or department of the state to withhold the nonexempt portion of earnings at each succeeding earnings disbursement interval until the entire amount of the ((child)) support debt stated in the lien or order to withhold and deliver has been withheld. As used in this chapter, the term "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments by any department or division of the state based upon inability to work or obtain employment.

("Earnings" shall also mean that part of temporary total disability payments and permanent total disability compensation to a workman allocated by REW 54.32.090 and 54.32.060 respectively to the spouse and children of a workman; and shall also include no more than forty percent of the net proceeds of payments to a workman for permanent partial disability under REW 54.32.080.) Earnings shall specifically include all gain derived from capital, from labor, or from both combined, including profit gained through sale or conversion of capital assets. The term "disposable earnings" means that part of the earnings of any individual remaining after the deduction from those earnings of any amount be required by law to be withheld.

Sec. 11. Section 10, chapter 164, Laws of 1971 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 ((child)) support lien, pay over, release, sell, transfer, or convey real or personal property subject to a ((child)) 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.

Sec. 12. Section 13, chapter 164, Laws of 1971 ex. sess. and RCW 74.20A.130 are each amended to read as follows:

Whenever a ((child)) support lien has been filed pursuant to RCW 74.20A.060, the secretary may collect the ((child)) support debt stated in said lien by the distraint, seizure, and sale of the property subject to said lien. The secretary shall give notice to the debtor and any person known to have or claim an interest therein of the general description of the property to be sold and the time and place of sale of said property. Said notice shall be given to such persons by certified mail, return receipt requested or by service in the manner prescribed for the service of a summons in a civil action. A notice specifying the property to be sold shall be posted in at least two public places in the county wherein the distraint has been made. The time of sale shall not be less than ten nor more than twenty days from the date of posting of such notices. Said sale shall be conducted by the secretary, who shall proceed to sell such property by parcel or by lot at a public auction, and who

may set a minimum reasonable price to include the expenses of making a levy and of advertising the sale, and if the amount bid for such property at the sale is not equal to the price so fixed, the secretary may declare such property to be purchased by the department for such price, or may conduct another sale of such property pursuant to the provisions of this section. In the event of sale, the debtor's account shall be credited with the amount for which the property has been sold. Property acquired by the department as herein prescribed may be sold by the secretary at public or private sale, and the amount realized shall be placed in the state general fund to the credit of the department of social and health services. In all cases of sale, as aforesaid, the secretary shall issue a bill of sale or a deed to the purchaser and said bill of sale or deed shall be prima facie evidence of the right of the secretary to make such sale and conclusive evidence of the regularity of his proceeding in making the sale, and shall transfer to the purchaser all right, title, and interest of the debtor in said property. The proceeds of any such sale, except in those cases wherein the property has been acquired by the department, shall be first applied by the secretary to reimbursement of the costs of distraint and sale, and thereafter in satisfaction of the delinquent account. Any excess which shall thereafter remain in the hands of the secretary shall be refunded to the debtor. Sums so refundable to a debtor may be subject to seizure or distraint by any taxing authority of the state or its political subdivisions or by the secretary for new sums due and owing subsequent to the subject proceeding. Except as specifically provided in this chapter, there shall be exempt from ((attachment)) distraint, seizure, ((execution)) and sale under this chapter such property as is exempt therefrom under the laws of this state.

Sec. 13. Section 14, chapter 164, Laws of 1971 ex. sess. and RCW 74.20A.140 are each amended to read as follows:

Whenever a ((child)) support lien has been filed, an action in foreclosure of lien upon real or personal property may be brought in the superior court of the county where real or personal property is or was located and the lien was filed and judgment shall be rendered in favor of the department for the amount due, with costs, and the court shall allow, as part of the costs, the moneys paid for making and filing the claim of lien, and a reasonable attorney's fee, and the court shall order any property upon which any lien provided for by this chapter is established, to be sold by the sheriff of the proper county to satisfy the lien and costs. The payment of the lien debt, costs and reasonable attorney fees, at any time before sale, shall satisfy the judgment of foreclosure. Where the net proceeds of sale upon application to the debt claimed do not satisfy the debt in full, the department shall have judgment over for any deficiency

remaining unsatisfied and further levy and sales upon other property of the judgment debtor may be made under the same execution. In all sales contemplated under this section, advertising of notice shall only be necessary for two weeks in a newspaper published in the county where said property is located, and if there be no newspaper therein, then in the most convenient newspaper having a circulation in such county. Remedies provided for herein are alternatives to remedies provided for in other sections of this chapter.

Sec. 14. Section 15, chapter 164, Laws of 1971 ex. sess. and RCW 74.20A.150 are each amended to read as follows:

Any person owning real property, or any interest in real property, against which a ((child)) support lien has been filed and foreclosure instituted, shall have the right to pay the amount due, together with expenses of the proceedings and reasonable attorney fees to the secretary and upon such payment the secretary shall restore said property to him and all further proceedings in the said foreclosure action shall cease. Said person shall also have the right within two hundred forty days after sale of property foreclosed under RCW 74.20A.140 to redeem said property by making payment to the purchaser in the amount paid by the purchaser plus interest thereon at the rate of six percent per annum.

Sec. 15. Section 17, chapter 164, Laws of 1971 ex. sess. and RCW 74.20A.170 are each amended to read as follows:

The secretary may at any time release a ((child)) support lien, or order to withhold and deliver, on all or part of the property of the debtor, or return seized property without liability, if assurance of payment is deemed adequate by the secretary, or if said action will facilitate the collection of the debt, but said release or return shall not operate to prevent future action to collect from the same or other property.

Sec. 16. Section 18, chapter 164, Laws of 1971 ex. sess. and RCW 74.20A.180 are each amended to read as follows:

If the secretary finds that the collection of any ((child)) support debt based upon subrogation to or assignment of the amount of support ordered by any superior court order ((or final decree of divorce)) is in jeopardy, he may make demand under RCW 74.20A.040 for immediate payment of the ((child)) support debt, and upon failure or refusal immediately to pay said ((child)) 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. 17. Section 19, chapter 164, Laws of 1971 ex. sess. and RCW 74.20A.190 are each amended to read as follows:

Interest of six percent per annum on any ((child)) support debt due and owing to the department under RCW 74.20A.030 may be collected by the secretary. No provision of this chapter shall be construed to require the secretary to maintain interest balance due accounts and said interest may be waived by the secretary, if said waiver would facilitate the collection of the debt.

Sec. 18. Section 20, chapter 164, Laws of 1971 ex. sess. and RCW 74.20A.200 are each amended to read as follows:

Any person against whose property a ((child)) 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 ((child)) support debt is due and owing; PROVIDED, That judicial relief shall not be granted except as provided for in RCW 74.08.080 whenever a fair hearing has been requested pursuant to RCW 74.20A.050. Liens filed during pendency of fair hearing or court review shall be reviewed pursuant to RCW 74.08.080. 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. 19. Section 21, chapter 164, Laws of 1971 ex. sess. and RCW 74.20A.210 are each amended to read as follows:

All moneys collected in fees, costs, attorney fees, interest payments, or other funds received by the secretary which are unidentifiable as to the ((child)) support account against which they should be credited, shall be held in a special fund from which the secretary may make disbursement for any costs or expenses incurred in the administration or enforcement of the provisions of this chapter.

Sec. 20. Section 22, chapter 164, Laws of 1971 ex. sess. and RCW 74.20A.220 are each amended to read as follows:

Any ((child)) support debt due the department from a responsible parent which the secretary deems uncollectible may be transferred from accounts receivable to a suspense account and cease to be accounted as an asset; PROVIDED, That at any time after six years from the date a ((child)) support debt was incurred, the secretary may charge off as uncollectible any ((child)) support debt upon which the secretary finds there is no available, practical, or lawful means by which said debt may be collected; PROVIDED FURTHER, That no proceedings or action under the provisions of this chapter may be begun after expiration of said six year period to institute collection of a ((child)) support debt. Nothing herein shall be construed to render invalid or nonactionable a ((child)) support lien filed prior to the expiration of said six year period or an assignment of earnings or order to withhold and deliver executed prior to the expiration of said six year period.

Sec. 21. Section 23, chapter 164, Laws of 1971 ex. sess. and RCW 74.20A.230 are each amended to read as follows:

No employer shall discharge an employee for reason that an assignment of earnings has been presented in settlement of a support debt or that a ((child)) 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 ((child)) support liens or orders to withhold and deliver are served upon the same employer within any period of twelve consecutive months.

Sec. 22. Section 24, chapter 164, Laws of 1971 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 ((child)) 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 ((child)) 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.

Sec. 23. Section 25, chapter 164, Laws of 1971 ex. sess. and RCW 74.20A.250 are each amended to read as follows:

By accepting public assistance for or on behalf of a child or children, the recipient shall be deemed to have made assignment to the department of any and all right, title, and interest in any ((child)) support obligation owed to or for said child or children up to the amount of public assistance money paid for or on behalf of said child or children for such term of time as such public assistance moneys are paid. The recipient shall also be 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 ((child)) support payments which are received on behalf of said child or children as reimbursement for the public assistance moneys previously paid to said recipient.

NEW SECTION. Sec. 24. There is added to chapter 164, Laws of 1971 ex. sess. and to chapter 74.20A RCW a new section to read as

follows:

One hundred percent of the temporary total disability payments and permanent total disability compensation to a workman allocated by RCW 51.32.090 and 51.32.060 respectively to the spouse and children of a workman, and forty percent of the net proceeds of payments to a workman for permanent partial disability under RCW 51.32.080 shall not be classified as "earnings" but shall be subject to lien or order to withhold and deliver and said lien or order to withhold and deliver shall continue to operate and require any political subdivision or department of the state to withhold the above stated portions at each subsequent disbursement or receipt interval until the entire amount of the support debt stated in the lien or order to withhold and deliver has been withheld.

NEW SECTION. Sec. 25. There is added to chapter 164, Laws of 1971 ex. sess. and to chapter 74.20A RCW a new section to read as follows:

As an alternative to the hearing and appeal procedures provided in RCW 74.20A.050, the secretary may, in the absence of a superior court order, serve on the responsible parent a notice and finding of financial responsibility requiring a responsible parent to appear and show cause in a hearing held by the department why the finding of responsibility and/or the amount thereof is incorrect, should not be finally ordered, but should be rescinded or modified. This notice and finding shall relate to the support debt accrued and/or accruing under this chapter and/or RCW 26.16.205, including periodic payments to be made in the future for such period of time as the child or children of said responsible parent are in need. Said hearing shall be held pursuant to this 1973 amendatory act, chapter 34.04 RCW, and the rules and regulations of the department, which shall provide for a fair hearing.

The notice and finding of financial responsibility shall be served in the same manner prescribed for the service of a summons in a civil action. Any responsible parent who objects to all or any part of the notice and finding shall have the right for not more than twenty days from the date of service to request in writing a hearing, which request shall be served upon the secretary or his designee by registered or certified mail or personally. If no such request is made, the notice and finding of responsibility shall become final. If a request is made, the execution of notice and finding of responsibility shall be stayed pending the decision on such hearing, or any direct appeal to the courts from that decision. Hearings may be held in the county of residence or other place convenient to the responsible parent. Any such hearing shall be a "contested case" as defined in RCW 34.04.010. The notice and finding of financial responsibility shall set forth the amount the department has

determined the responsible parent owes, the support debt accrued and/or accruing, and, as appropriate, the amount to be paid thereon each month, all computable on the basis of the amount of the monthly public assistance payment previously paid, or need alleged, and the ability of the responsible parent to pay all, or any portion of the amount so paid and/or being paid and/or to be paid. The notice and finding shall also include a statement of the name of the recipient or custodian and the name of the child or children for whom assistance is being paid or need is alleged; and/or a statement of the amount of periodic future support payments as to which financial responsibility is found.

The notice and finding shall include a statement that the responsible parent may object to all or any part of the notice and finding, request a hearing to show cause why said responsible parent should not be determined to be liable for any or all of the debt, past and future, determined, and the amount to be paid thereon.

The notice and finding shall also include a statement that if the responsible parent fails to request a hearing that the support debt and payments stated in the notice and finding, including periodic support payments in the future, shall be assessed and determined and ordered by the department and that this debt shall be subject to collection action; a statement that the property of the debtor, without further advance notice or hearing, will be subject to lien and foreclosure, distraint, seizure and sale, or order to withhold and deliver to satisfy the debt.

If a hearing is requested, it shall be promptly scheduled, in no more than thirty days. The hearing examiner shall determine the liability and responsibility, if any, of the alleged responsible parent under RCW 74.20A.030, and shall also determine the amount of periodic payments to be made to satisfy past, present or future liability under RCW 74.20A.030 and/or 26.16.205. In making these determinations, the hearing examiner shall include in his considerations (1) the necessities and requirements of the child or children, exclusive of any income of the custodian of said child or children, (2) the amount of support debt claimed, (3) the public policy and intent of the legislature to require that children be maintained from the resources of responsible parents thereby relieving to the greatest extent possible the burden borne by the general citizenry through welfare programs, and (4) the abilities and resources of the responsible parent.

If the responsible parent fails to appear at the hearing, upon a showing of valid service, the hearing examiner shall enter a decision and order declaring the support debt and payment provisions stated in the notice and finding of financial responsibility to be assessed and determined and subject to collection action. Within

fifteen days of entry of said decision and order, the responsible parent may petition the department to vacate said decision and order upon a showing of any of the grounds enumerated in RCW 4.72.010.

The hearing examiner shall, within twenty days of the hearing, enter findings, conclusions and a final decision determining liability and responsibility and/or future periodic support payments. The determination of the hearing examiner entered pursuant to this section shall be entered as a decision and order and shall limit the support debt under RCW 74.20A.030 to the amounts stated in said decision: PROVIDED, That said decision establishing liability and/or future periodic support payments shall be superseded upon entry of a superior court order for support to the extent the superior court order is inconsistent with the hearing order or decision: PROVIDED FURTHER, That in the absence of a superior court order either the responsible parent or the department may petition the secretary or his designee for issuance of an order to appear and show cause based on a showing of good cause and material change of circumstances, to require the other party to appear and show cause why the decision previously entered should not be prospectively modified. Said order to appear and show cause together with a copy of the affidavit upon which the order is based shall be served in the manner of a summons in a civil action on the other party by the petitioning party. A hearing shall be set not less than fifteen nor more than thirty days from the date of service, unless extended for good cause shown. Prospective modification may be ordered, but only upon a showing of good cause and material change of circumstances.

The department, in its original determinations, and the hearing examiner in making determinations based on objections to original determinations or on petitions to modify, shall consider the standards promulgated pursuant to RCW 74.20.270 and any standards for determination of support payments used by the superior court of the county of residence of the responsible parent.

Debts determined pursuant to this section, accrued and not paid, are subject to collection action under this chapter without further necessity of action by the hearing examiner.

"Need" as used in this section shall mean the necessary costs of food, clothing, shelter and medical attendance for the support of a dependent child or children.

NEW SECTION. Sec. 26. This 1973 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government, and its existing public institutions, and shall take effect immediately.

V NEW SECTION. Sec. 27. The provisions of this 1973 amendatory act shall expire and become null and void July 1, 1975.

Passed the House April 14, 1973.

Passed the Senate April 14, 1973.

Approved by the Governor April 25, 1973, with the exception of Section 27 which is vetoed.

Filed in Office of Secretary of State April 26, 1973.

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

"I am returning herewith without my approval as to one item House Bill No. 305 entitled:

Veto
Message

"AN ACT Relating to public assistance."

This act makes various amendments to the law establishing procedures for collection of support for dependent children supported by public assistance grants. This program is responsible for several million dollars in collections annually which are deposited in the state general fund.

Section 27 of this bill, which was not included in the original bill requested by the department of social and health services, would terminate the whole act, first adopted in 1971, on July 1, 1975. This act provides the whole basis for the very successful program in collection of delinquent support payments. It is neither necessary nor appropriate to terminate it in the foreseeable future.

Accordingly, I have determined to veto that item consisting of section 27. With that exception, House Bill No. 305 is approved."

CHAPTER 184

[Substitute House Bill No. 391]

CONSERVATION DISTRICTS LAW--STATE CONSERVATION
COMMISSION--POWERS AND DUTIES

AN ACT Relating to conservation; amending section 1, chapter 187, Laws of 1939 as amended by section 1, chapter 240, Laws of 1961 and RCW 89.08.005; amending section 2, chapter 187, Laws of 1939 and RCW 89.08.010; amending section 3, chapter 187, Laws of 1939 as last amended by section 2, chapter 240, Laws of 1961 and RCW 89.08.020; amending section 3, chapter 304, Laws of 1955 as last amended by section 1, chapter 217, Laws of 1967 and RCW 89.08.030; amending section 4, chapter 304, Laws of 1955 as amended by section 4, chapter 240, Laws of