

CHAPTER 171

[Engrossed Substitute House Bill No. 125]

PUBLIC ASSISTANCE—CHILD SUPPORT

AN ACT Relating to social and health services; amending section 15, chapter 206, Laws of 1963 as amended by section 3, chapter 183, Laws of 1973 1st ex. sess. and RCW 74.20.300; amending section 74.04.290, chapter 26, Laws of 1959 as last amended by section 305, chapter 141, Laws of 1979 and RCW 74.04.290; amending section 2, chapter 322, Laws of 1959 as last amended by section 364, chapter 141, Laws of 1979 and RCW 74.20.010; amending section 2, chapter 164, Laws of 1971 ex. sess. and RCW 74.20A.020; amending section 3, chapter 164, Laws of 1971 ex. sess. as amended by section 4, chapter 183, Laws of 1973 1st ex. sess. and RCW 74.20A.030; amending section 6, chapter 164, Laws of 1971 ex. sess. as amended by section 7, chapter 183, Laws of 1973 1st ex. sess. and RCW 74.20A.060; amending section 8, chapter 164, Laws of 1971 ex. sess. as amended by section 9, chapter 183, Laws of 1973 1st ex. sess. and RCW 74.20A.080; amending section 11, chapter 164, Laws of 1971 ex. sess. and RCW 74.20A.110; amending section 16, chapter 164, Laws of 1971 ex. sess. and RCW 74.20A.160; amending section 20, chapter 164, Laws of 1971 ex. sess. as amended by section 18, chapter 183, Laws of 1973 1st ex. sess. and RCW 74.20A.200; amending section 9, chapter 164, Laws of 1971 ex. sess. as amended by section 10, chapter 183, Laws of 1973 1st ex. sess. and RCW 74.20A.090; amending section 1, chapter 30, Laws of 1974 ex. sess. as last amended by section 41, chapter 350, Laws of 1977 ex. sess. and RCW 51.32.040; amending section 25, chapter 183, Laws of 1973 1st ex. sess. and RCW 74.20A.055; amending section 16, chapter 173, Laws of 1969 ex. sess. as amended by section 2, chapter 183, Laws of 1973 1st ex. sess. and RCW 74.20.101; amending section 74.09.180, chapter 26, Laws of 1959 as last amended by section 1, chapter 306, Laws of 1971 ex. sess. and RCW 74.09.180; amending section 22, chapter 164, Laws of 1971 ex. sess. as amended by section 20, chapter 183, Laws of 1973 1st ex. sess. and RCW 74.20A.220; amending section 25, chapter 164, Laws of 1971 ex. sess. as amended by section 23, chapter 183, Laws of 1973 1st ex. sess. and RCW 74.20A.250; adding a new section to chapter 74.04 RCW; adding new sections to chapter 74.20 RCW; adding new sections to chapter 74.20A RCW; creating a new section; repealing section 5, chapter 164, Laws of 1971 ex. sess., section 6, chapter 183, Laws of 1973 1st ex. sess. and RCW 74.20A.050; repealing section 27, chapter 183, Laws of 1973 1st ex. sess. (uncodified); and prescribing penalties.

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

Section 1. Section 15, chapter 206, Laws of 1963 as amended by section 3, chapter 183, Laws of 1973 1st ex. sess. and RCW 74.20.300 are each amended to read as follows:

No filing or recording fees, court fees, or fees for making copies of documents (~~or fees for service of process~~) shall be required from the state department of 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~~) necessary to establish paternity or enforce or collect support moneys.

Filing fees shall also not be required of any prosecuting attorney or the attorney general for action to establish paternity or enforce or collect support moneys.

Sec. 2. Section 74.04.290, chapter 26, Laws of 1959 as last amended by section 305, chapter 141, Laws of 1979 and RCW 74.04.290 are each amended to read as follows:

In carrying out any of the provisions of this title, the secretary, county administrators, hearing examiners or other duly authorized officers of the department shall have power to subpoena witnesses, administer oaths, take testimony and compel the production of such papers, books, records and documents as they may deem relevant to the performance of their duties; but no officer or agency mentioned in this section shall have power to compel the production of any papers, books, records or documents which are in the custody of any other such officer or agency and within his or its power to provide voluntarily on request.

If an individual fails to obey the subpoena or obeys the subpoena but refuses to testify when required concerning any matter under examination or investigation or the subject of a hearing, the officer or agency issuing the subpoena may petition the superior court of the county where the examination or investigation is being conducted for enforcement of the subpoena. The petition shall be accompanied by a copy of the subpoena and proof of service, and shall set forth in what specific manner the subpoena has not been complied with, and shall ask an order of the court to compel the witness to appear and testify before the agency. The court upon such petition shall enter an order directing the witness to appear before the court at a time and place to be fixed in such order and then and there to show cause why he has not responded to the subpoena or has refused to testify. A copy of the order shall be served upon the witness. If it appears to the court that the subpoena was properly issued and that the particular questions which the witness refuses to answer are reasonable and relevant the court shall enter an order that the witness appear at the time and place fixed in the order and testify or produce the required papers, and on failing to obey said order the witness shall be dealt with as for contempt of court.

The subpoena shall be served in the same manner prescribed for the service of a summons in a civil action or by certified mail, return receipt requested. The receipt shall be prima facie evidence of service.

Sec. 3. Section 2, chapter 164, Laws of 1971 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 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) "Superior court order" means any judgment or order of the superior court of the state of Washington 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.

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

(6) "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) "Support moneys" means any moneys 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.

Sec. 4. Section 3, chapter 164, Laws of 1971 ex. sess. as amended by section 4, chapter 183, Laws of 1973 1st 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, the debt shall be limited to the amount provided for by said order. The department shall have the right to petition the appropriate superior court for modification of a superior court order on the same grounds as 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))~~ 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 ((thus)) expended, based on the support obligation of the responsible parent established by a superior court order or RCW 26.16.205. ((If a superior court order 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)) No collection shall be made from a parent or other person who is the recipient of public assistance moneys ((for the benefit of minor dependent children for the period)) while such person or persons are in such status.

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

Sec. 5. Section 6, chapter 164, Laws of 1971 ex. sess. as amended by section 7, chapter 183, Laws of 1973 1st 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)) and finding of financial responsibility, or as otherwise appropriate under ((the provisions of RCW 74.20A.050)) RCW 74.20A.055, or as appropriate under ((the provisions of section 27 of this 1973 amendatory)) section 18 of this 1979 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 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 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 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~~) 74.20A.055 or by a superior court ordering release of said support lien on the basis that no debt exists or that the debt has been satisfied.

Sec. 6. Section 8, chapter 164, Laws of 1971 ex. sess. as amended by section 9, chapter 183, Laws of 1973 1st 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 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 (~~whenever a support lien has been filed pursuant to RCW 74.20A.060~~) 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 section 18 of this 1979 act, 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 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 (~~and 74.20A.130~~).

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.

Sec. 7. Section 11, chapter 164, Laws of 1971 ex. sess. and RCW 74.20A.110 are each amended to read as follows:

Whenever any person, firm, corporation, association, political subdivision or department of the state has in its possession earnings, deposits, accounts, or balances in excess of the amount of the debt claimed by the department (~~plus one hundred dollars~~), such person, firm, corporation, association, political subdivision or department of the state may, without liability under this chapter, release said excess to the debtor.

Sec. 8. Section 16, chapter 164, Laws of 1971 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 section 18 of this 1979 act, 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 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 20, chapter 164, Laws of 1971 ex. sess. as amended by section 18, chapter 183, Laws of 1973 1st 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(~~(-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. 10. Section 9, chapter 164, Laws of 1971 ex. sess. as amended by section 10, chapter 183, Laws of 1973 1st ex. sess. and RCW 74.20A.090 are each amended to read as follows:

Whenever a 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 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 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, notwithstanding any other provision of law making such payments exempt from garnishment, attachment, or other process to satisfy support obligation, 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)) made under Title 50 or 74 RCW. Earnings shall specifically include all gain derived from capital, from labor, or from both combined, not 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 1, chapter 30, Laws of 1974 ex. sess. as last amended by section 41, chapter 350, Laws of 1977 ex. sess. and RCW 51.32.040 are each amended to read as follows:

No money paid or payable under this title shall, except as provided for in RCW ((74.20A.090 and 74.20A.100)) 74.20A.260, prior to the issuance and delivery of the check or warrant therefor, be capable of being assigned, charged, or ever be taken in execution or attached or garnished, nor shall the same pass, or be paid, to any other person by operation of law, or by any form of voluntary assignment, or power of attorney. Any such assignment or charge shall be void: PROVIDED, That if any worker suffers a permanent partial injury, and dies from some other cause than the accident which produced such injury before he or she shall have received payment of his or her award for such permanent partial injury, or if any worker suffers any other injury before he or she shall have received payment of any monthly installment covering any period of time prior to his or her death, the amount of such permanent partial award, or of such monthly payment or both, shall be paid to the surviving spouse, or to the child or children if there is no surviving spouse: PROVIDED FURTHER, That, if any worker suffers an injury and dies therefrom before he or she shall have received payment of any monthly installment covering time loss for any period of time prior to his or her death, the amount of such monthly payment shall be paid to the surviving spouse, or to the child or children if there is no surviving spouse: PROVIDED FURTHER, That any application for compensation under the foregoing provisos of this section shall be filed with the department or self-insuring employer within one year of the date of death: PROVIDED FURTHER, That if the injured worker resided in the United States as long as three years prior to the date of injury, such payment shall not be made to any surviving spouse or child who was at the time of the injury a nonresident of the United States: PROVIDED FURTHER, That any worker receiving benefits under this title who is subsequently confined in, or

who subsequently becomes eligible therefor while confined in any institution under conviction and sentence shall have all payments of such compensation canceled during the period of confinement but after discharge from the institution payment of benefits thereafter due shall be paid if such worker would, but for the provisions of this proviso, otherwise be entitled thereto: PROVIDED FURTHER, That if any prisoner is injured in the course of his or her employment while participating in a work or training release program authorized by chapter 72.65 RCW and is subject to the provisions of this title, he or she shall be entitled to payments under this title subject to the requirements of chapter 72.65 RCW unless his or her participation in such program has been canceled, or unless he or she is returned to a state correctional institution, as defined in RCW 72.65.010(3), as a result of revocation of parole or new sentence: PROVIDED FURTHER, That if such incarcerated worker has during such confinement period, any beneficiaries, they shall be paid directly the monthly benefits which would have been paid to him or her for himself or herself and his or her beneficiaries had he or she not been so confined. Any lump sum benefits to which the worker would otherwise be entitled but for the provisions of these provisos shall be paid on a monthly basis to his or her beneficiaries.

Sec. 12. Section 25, chapter 183, Laws of 1973 1st ex. sess. and RCW 74.20A.055 are each amended to read as follows:

~~((As an alternative to the hearing and appeal procedures provided in RCW 74.20A.050,))~~ (1) The secretary may, in the absence of a superior court order, serve on the responsible parent or parents a notice and finding of financial responsibility requiring a responsible parent or parents 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 or parents are in need. Said hearing shall be held pursuant to ~~((this 1973 amendatory act))~~ RCW 74.20A.055, chapter 34.04 RCW, and the rules and regulations of the department, which shall provide for a fair hearing.

(2) 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 or may be served on the responsible parent by certified mail, return receipt requested. The receipt shall be prima facie evidence of service. The notice shall be served upon the debtor within sixty days from the date the state assumes responsibility for the support of the dependent child or children on whose behalf support is sought. If the notice is not served within sixty days from such date, the department shall lose the right to reimbursement of

payments made after the sixty-day period and before the date of notification: PROVIDED, That if the department exercises reasonable efforts to locate the debtor and is unable to do so the entire sixty-day period is tolled until such time as the debtor can be located. 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)) department by registered or certified mail or personally. If no such request is made, the notice and finding of responsibility shall become final and the debt created therein shall be subject to collection action as authorized under this chapter. If a timely 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)). If no timely written request for a hearing has previously been made, the responsible parent may petition the secretary or the secretary's designee at any time for a hearing as provided for in this section upon a showing of good cause for the failure to make a timely request for hearing. The filing of the petition for a hearing after the twenty-day period shall not affect any collection action previously taken under this chapter. The granting of a request for the hearing shall operate as a stay on any future collection action, pending the final decision of the secretary or the secretary's designee on the hearing. Moneys withheld as a result of collection action in effect at the time of the granting of the request for the hearing shall be delivered to the department and shall be held in trust by the department pending the final order of the secretary or during the pendency of any appeal to the courts made under chapter 34.04 RCW. The department may petition the hearing examiner to set temporary current and future support to be paid beginning with the month in which the petition for an untimely hearing is granted. The hearing examiner shall order payment of temporary current and future support if appropriate in an amount determined pursuant to the scale of suggested minimum contributions adopted under RCW 74.20.270. In the event the responsible parent does not make payment of the temporary current and future support as ordered by the hearing examiner, the department may take collection action pursuant to chapter 74.20A RCW during the pendency of the hearing or thereafter to collect any amounts owing under the order. Temporary current and future support paid, or collected, during the pendency of the hearing or appeal shall be disbursed to the custodial parent or as otherwise appropriate when received by the department. If the final decision of the department, or of the courts on appeal, is that the department has collected from the responsible parent other than temporary current or future support, an amount greater than such parent's past support debt, the department shall promptly refund any such excess amount to such parent.

(3) 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)) periodic payments to be made in the future for such period of time as the child or children of the responsible parent are in need, 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))~~ alleged.

(4) The notice and finding shall include a statement that the responsible parent may object to all or any part of the notice and finding, and 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 in timely fashion 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.

(5) If a hearing is requested, it shall be promptly scheduled, in no more than thirty days. The hearing, including a hearing on prospective modification, shall be conducted by a duly qualified hearing examiner appointed for that purpose.

After evidence has been presented at hearings conducted by the hearing examiner, the hearing examiner shall enter an initial decision and order which shall be in writing and shall contain findings and conclusions as to each contested issue of fact and law, as well as the order based thereon. The hearing examiner shall file the original of the initial decision and order, signed by the hearing examiner, with the secretary or the secretary's designee. Copies of the initial decision and order shall be mailed by the hearing examiner to the department and to the appellant by certified mail to the last known address of each party. Within thirty days of filing, either the appellant or the department may file with the secretary or the secretary's designee a written petition for review of the initial decision and order. The petition for review shall set forth in detail the basis for the requested review

and shall be mailed by the petitioning party to the other party by certified or registered mail to the last known address of the party.

The petition shall be based on any of the following causes materially affecting the substantial rights of the petitioner:

(a) Irregularity in the proceedings of the hearing examiner or adverse party, or any order of the hearing examiner, or abuse of discretion, by which the moving party was prevented from having a fair hearing;

(b) Misconduct of the prevailing party;

(c) Accident or surprise which ordinary prudence could not have guarded against;

(d) Newly discovered evidence, material for the party making the application, which the party could not with reasonable diligence have discovered and produced at the hearing;

(e) That there is no evidence or reasonable inference from the evidence to justify the decision, or that it is contrary to law;

(f) Error in mathematical computation;

(g) Error in law occurring at the hearing and objected to at the time by the party making the application;

(h) That the moving party is unable to perform according to the terms of the order without further clarification;

(i) That substantial justice has not been done;

(j) Fraud or misstatement of facts by any witness, which materially affects the debt;

(k) Clerical mistakes in the decision arising from oversight or omission;
or

(l) That the decision and order entered because the responsible parent failed to appear at the hearing should be vacated and the matter be remanded for a hearing upon showing of the grounds enumerated in RCW 4.72.010 or superior court civil rule 60.

In the event no petition for review is made as provided in this subsection by any party, the initial decision and order of the hearing examiner is final as of the date of filing and becomes the decision and order of the secretary. No appeal may be taken therefrom to the courts and the debt created is subject to collection action as authorized by this chapter.

After the receipt of a petition for review, the secretary or the secretary's designee shall consider the initial decision and order, the petition or petitions for review, the record or any part thereof, and such additional evidence and argument as the secretary or the secretary's designee may in his or her discretion allow. The secretary or the secretary's designee may remand the proceedings to the hearing examiner for additional evidence or argument. The secretary or the secretary's designee may deny review of the initial decision and order and thereupon deny the petition or petitions at which time the initial decision and order shall be final as of the date of the denial and all parties shall forthwith be notified, in writing, of the denial, by

certified mail to the last known address of the parties. Unless the petition is denied, the secretary or the secretary's designee shall review the initial decision and order and shall make the final decision and order of the department. The final decision and order shall be in writing and shall contain findings of fact and conclusions of law as to each contested issue of fact and law. A copy of the decision and order, including the findings and conclusions, shall be mailed to each party to the appeal by certified mail to the last known address of the party. The decision and order shall authorize collection action, as appropriate, under this chapter.

(6) The hearing examiner in his or her initial decision, or the secretary or the secretary's designee in review of the initial decision, shall determine the past 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 the future, which amount is not limited by the amount of any public assistance payment made to or for the benefit of the child. In making these determinations, the hearing examiner, and the secretary or the secretary's designee, shall include in his or her 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~~)):

(a) All earnings and income resources of the responsible parent, including real and personal property;

(b) The earnings potential of the responsible parent;

(c) The reasonable necessities of the responsible parent;

(d) The ability of the responsible parent to borrow;

(e) The needs of the child for whom the support is sought;

(f) The amount of assistance which would be paid to the child under the full standard of need of the state's public assistance plan;

(g) The existence of other dependents; and

(h) That the child, for whom support is sought, benefits from the income and resources of the responsible parent on an equitable basis in comparison with any other minor children 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 an initial 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))~~ thirty days of entry of said decision and order, the responsible parent may petition the ~~((department))~~ secretary or the secretary's designee to vacate said decision and order upon

a showing of any of the grounds enumerated in RCW 4.72.010 or superior court civil rule 60.

(7) 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 petition and affidavit upon which the order is based shall be served in the manner of a summons in a civil action or by certified mail, return receipt requested, 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 decision and order for prospective modification entered by the hearing examiner shall be an initial decision subject to review by the secretary or the secretary's designee as provided for in this section.

(8) The ~~((department, in its original determinations, and the))~~ hearing examiner, in making ~~((determinations based on objections to original determinations or on petitions to modify))~~ the initial decision and the secretary or the secretary's designee in the final decision determining liability and/or future periodic support payments, 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.

(9) 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, or the secretary or secretary's designee.

(10) "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. The amount determined by reference to the schedule of suggested minimum contributions adopted under RCW 74.20.270, based on the earnings, resources, and property of the alleged responsible parent, shall be a rebuttable presumption of the alleged responsible parent's ability

to pay and the need of the family: PROVIDED, That such responsible parent shall be presumed to have no ability to pay child support under this chapter from any income received from aid to families with dependent children, supplemental security income, or continuing general assistance.

Sec. 13. Section 16, chapter 173, Laws of 1969 ex. sess. as amended by section 2, chapter 183, Laws of 1973 1st 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 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 a support obligation exists are receiving public assistance or that the support debt has been assigned to the department.

After service on a responsible parent of a notice under this section or RCW 74.20A.040 or 74.20A.055, payment of moneys or in-kind providings for the support of the responsible parent's children which are not paid to the department shall not be credited against or set-off against any obligation to provide support which has been assigned to the department, whether the obligation has been determined by court order, or pursuant to RCW 74.20A.055, or is unliquidated.

Sec. 14. Section 74.09.180, chapter 26, Laws of 1959 as last amended by section 1, chapter 306, Laws of 1971 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 secretary of the department of social and health services may, in his discretion, furnish assistance, under the provisions of this chapter, for the results of injuries to or illness of a recipient, and the department of 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, including any claim for benefits arising from an insurance program, to which such recipient is entitled (a) against any tortfeasor and/or insurer of such tortfeasor, or (b) any contract of insurance, purchased by the recipient or any other person, providing coverage to such recipient for said injuries, any illness, dental costs, costs incident to birth, or any other coverage for purposes of or costs for which the department provides assistance or meets all or part of the cost of care to a vendor, 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 tortfeasor 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.

NEW SECTION. Sec. 15. There is added to chapter 74.20 RCW a new section to read as follows:

The provisions of RCW 26.26.090 requiring appointment of a general guardian or guardian ad litem to represent the child in an action brought to determine the parent and child relationship do not apply to actions brought under chapter 26.26 RCW if:

(1) The action is brought by the attorney general on behalf of the department of social and health services, the child, or the natural mother; or

(2) The action is brought by any prosecuting attorney on behalf of the state, the child, or the natural mother when referral has been made to the prosecuting attorney by the department of social and health services requesting such action.

The court, on its own motion or on motion of a party, may appoint a guardian ad litem when necessary.

Sec. 16. Section 22, chapter 164, Laws of 1971 ex. sess. as amended by section 20, chapter 183, Laws of 1973 1st ex. sess. and RCW 74.20A.220 are each amended to read as follows:

Any 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 support debt was incurred, the secretary may charge off as uncollectible any 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 support debt. Nothing herein shall be construed to render invalid or nonactionable a 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))~~).

The department may accept offers of compromise of disputed claims or may grant partial or total charge-off of support arrears owed to the department up to the total amount of public assistance paid to or for the benefit of the persons for whom the support obligation was incurred. The

department shall adopt rules as to the considerations to be made in the granting or denial of partial or total charge-off and offers of compromise of disputed claims of debt for support arrears.

The responsible parent owing a support debt may execute a written extension or waiver of any statute, including but not limited to RCW 4.56-.210, which may bar or impair the collection of the debt and the extension or waiver shall be effective according to its terms.

NEW SECTION. Sec. 17. There is added to chapter 74.20 RCW a new section to read as follows:

Whenever a custodian of children, or other person, receives support moneys paid to them which moneys are paid in whole or in part in satisfaction of a support obligation which has been assigned to the department pursuant to 42 U.S.C. Sec. 602(A)(26)(a) or section 22 of this act or to which the department is owed a debt pursuant to RCW 74.20A.030, the moneys shall be remitted to the department within eight days of receipt by the custodian or other person. If not so remitted the custodian or other person shall be indebted to the department as a support debt in an amount equal to the amount of the support money received and not remitted.

By not paying over the moneys to the department, a custodial parent or other person is deemed, without the necessity of signing any document, to have made an irrevocable assignment to the department of any support delinquency owed which is not already assigned to the department or to any support delinquency which may accrue in the future in an amount equal to the amount of support money retained. The department may utilize the collection procedures in chapter 74.20A RCW to collect the assigned delinquency to effect recoupment and satisfaction of the debt incurred by reason of the failure of the custodial parent or other person to remit. The department is also authorized to make a set-off to effect satisfaction of the debt by deduction from support moneys in its possession or in the possession of any clerk of the court or other forwarding agent which are paid to the custodial parent or other person for the satisfaction of any support delinquency. Nothing in this section authorizes the department to make set-off as to current support paid during the month for which the payment is due and owing.

NEW SECTION. Sec. 18. There is added to chapter 74.20A RCW a new section to read as follows:

The secretary may issue a notice of support debt to any person, firm, corporation, association or political subdivision of the state of Washington or any officer or agent thereof who is in possession of support moneys, or who has had support moneys in his or her possession at some time in the past, which support moneys were or are claimed by the department as the property of the department by assignment, subrogation, or by operation of law or legal process under chapter 74.20A RCW, if the support moneys have not been remitted to the department as required by law.

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

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

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

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

If the hearing is granted it shall be an administrative hearing limited to the determination of the ownership of the moneys claimed in the notice of debt. The right to the hearing is conditioned upon holding of any funds not yet disbursed or expended or to be received in the future in trust pending the final order in these proceedings or during any appeal made to the courts.

The secretary or the secretary's designee shall enter an appropriate order providing for the terms of the trust.

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

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

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

If, at any time, the superior court enters judgment for an amount of debt at variance with the amount determined by the final order in these proceedings, the judgment shall supersede the final order in these proceedings. Any debt determined by the superior court in excess of the amount determined by the final order in these proceedings shall be the property of the department as assigned under 42 U.S.C. 602(A)(26)(a), RCW 74.20-.040, 74.20A.250, or sections 17 or 22 of this act. 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 section 17 of this act 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 section 22 of this act 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. The department may not take collection action during such period of time as the public assistance recipient remains in that status. 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. 19. There is added to chapter 74.20 RCW a new section to read as follows:

In order to facilitate and ensure compliance with Title IV-D of the federal social security act, now existing or hereafter amended, wherein the state is required to undertake to establish paternity of such children as are born out of wedlock, the secretary of social and health services may pay the reasonable and proper fees of attorneys admitted to practice before the courts of this state, who are engaged in private practice for the purpose of maintaining actions under chapter 26.26 RCW on behalf of such children, to the end that parent and child relationships be determined and financial support obligations be established by superior court order. The secretary or the secretary's designee shall make the determination in each case as to which cases shall be referred for representation by such private attorneys. The secretary may advance, pay, or reimburse for payment of, such reasonable costs as may be attendant to an action under chapter 26.26 RCW. The representation by a private attorney shall be only on behalf of the subject child, the custodial natural parent, and the child's personal representative or guardian ad litem, and shall not in any manner be, or be construed to be, in representation of the department of social and health services or the state of Washington, such representation being restricted to that provided pursuant to chapters 43.10 and 36.27 RCW.

Sec. 20. Section 25, chapter 164, Laws of 1971 ex. sess. as amended by section 23, chapter 183, Laws of 1973 1st 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 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)) is 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.

NEW SECTION. Sec. 21. There is added to chapter 74.20A RCW a new section to read as follows:

Whenever any person requests an administrative hearing under RCW 74.20A.055 or section 18 of this act, after the department has notified the person of the requirements of this section, it shall be the responsibility of the person to notify the department of the person's mailing address at the time the request for hearing is made and also to notify the department of any subsequent change of mailing address during the pendency of the action and any appeal made therefrom to the courts. Whenever the person has a

duty under this section to advise the department of the person's mailing address, mailing by the department by certified mail to the person's last known address constitutes service as required by chapters 74.20A and 34.04 RCW.

NEW SECTION. Sec. 22. There is added to chapter 74.20 RCW a new section 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 support 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 which have accrued at the time the assignment is made. Payment of public assistance under this chapter operates as an assignment by operation of law.

(2) The department may, during the four months following the last month in which public assistance was paid, and thereafter if a nonassistance application 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.

NEW SECTION. Sec. 23. There is added to chapter 74.20A RCW a new section to read as follows:

While discharging its responsibilities to enforce the support obligations of responsible parents, the department shall respect the right of privacy of recipients of public assistance and of other persons. Any inquiry about sexual activity shall be limited to that necessary to resolve a genuine dispute about the parentage of a child. When a custodial mother has informed the department that a particular man is the father of her child, the department shall make no further inquiry into her personal life unless the man so identified has denied that he is the father of such child.

Sec. 24. Section 2, chapter 322, Laws of 1959 as last amended by section 364, chapter 141, Laws of 1979 and RCW 74.20.010 are each amended to read as follows:

It is the responsibility of the state of Washington through the state department of social and health services to conserve the expenditure of public assistance funds, whenever possible, in order that such funds shall not be expended if there are private funds available or which can be made available by judicial process or otherwise to partially or completely meet the financial needs of the children of this state. The failure of parents to provide adequate financial support and care for their children is a major cause of financial dependency and a contributing cause of social delinquency.

The purpose of this chapter is to provide the state of Washington, through the department of social and health services, a more effective and efficient way to effect the support of dependent children by the person or persons who, under the law, are primarily responsible for such support and to lighten the heavy burden of the taxpayer, who in many instances is paying toward the support of dependent children while those persons primarily responsible are avoiding their obligations. It is the intention of the legislature that the powers delegated to the said department in this chapter be liberally construed to the end that persons legally responsible for the care and support of children within the state be required to assume their legal obligations in order to reduce the financial cost to the state of Washington in providing public assistance funds for the care of children. It is the intention of the legislature that the department provide sufficient staff to carry out the purposes of this chapter, chapter 74.20A RCW, the abandonment and nonsupport statutes, and any applicable federal support enforcement statute administered by the department. It is also the intent of the legislature that the staff responsible for support enforcement be encouraged to conduct their support enforcement duties with fairness, courtesy, and the highest professional standards.

NEW SECTION. Sec. 25. There is added to chapter 74.20 RCW a new section to read as follows:

The department shall develop workload standards for each employee classification involved in support enforcement activities for each category of support enforcement cases. The department shall submit the workload standards and a preliminary forecast of the level of staffing required to meet the workload standards to the senate ways and means committee and the house of representatives revenue and appropriations committees six months before the regular legislative sessions and whenever this information is requested by the senate ways and means committee and the house of representatives revenue and appropriations committees.

NEW SECTION. Sec. 26. The following acts or parts of acts are each repealed:

- (1) Section 5, chapter 164, Laws of 1971 ex. sess., section 6, chapter 183, Laws of 1973 1st ex. sess. and RCW 74.20A.050; and
- (2) Section 27, chapter 183, Laws of 1973 1st ex. sess. (uncodified).

NEW SECTION. Sec. 27. The repeal of RCW 74.20A.050 and the amendment of RCW 74.20A.030 and 74.20A.250 by this 1979 act is not intended to affect any existing or accrued right, any action or proceeding already taken or instituted, any administrative action already taken, or any rule, regulation, or order already promulgated. The repeal and amendments are not intended to revive any law heretofore repealed.

NEW SECTION. Sec. 28. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House April 25, 1979.

Passed the Senate April 19, 1979.

Approved by the Governor May 14, 1979.

Filed in Office of Secretary of State May 14, 1979.

CHAPTER 172

[Substitute House Bill No. 227]

SCHOOL DISTRICT LEVIES—MAXIMUM DOLLAR AMOUNTS—PROGRAMS
AN ACT Relating to revenue and taxation; amending section 4, chapter 325, Laws of 1977 ex. sess. and RCW 84.52.0531; creating new sections; declaring an emergency; and providing an effective date.

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

Section 1. Section 4, chapter 325, Laws of 1977 ex. sess. and RCW 84.52.0531 are each amended to read as follows:

The maximum dollar amount which may be levied by or for any school district for maintenance and operation support under the provisions of RCW 84.52.053 shall be as follows:

(1) ~~((For excess levies in 1977 for collection in 1978:~~

~~To the extent that any district receives funds through the state apportionment formula in excess of the amount anticipated by such a district when it established its excess levy for collection in 1978 and when such excess can be utilized to relieve special levy burdens, then such a district should place a first priority on reducing its special levy.~~

~~(2))~~ For excess levies in 1977 for collection in 1979; for excess levies in 1978 for collection in 1979 ~~((and thereafter))~~; for excess levies in 1978 for collection in 1980; and for excess levies in 1979 for collection in 1980, the sum of:

(a) That amount equal to ten percent of each school district's prior year basic education allocation converted to one hundred percent of formula; plus